

Serial Number 1939/253.



**THE SHIPPING REQUISITIONING EMERGENCY REGULATIONS
1939, AMENDMENT NO. 1.**

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government Buildings at Wellington, this 29th day of
November, 1939.

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 Shipping Requisitioning Emergency Regulations 1939, Amendment No. 1.

2. These regulations shall be read with and form part of the Shipping Requisitioning Emergency Regulations 1939* (hereinafter called the principal regulations).

3. Regulation 2 of the principal regulations is amended by adding thereto the following words: "or any vessel owned by a British subject and for the time being in New Zealand, including New Zealand waters, which is not registered as a ship under the Merchant Shipping Act, 1894 (Imperial) (all hereinafter included in the terms 'ship' and 'vessel')." "

4. The principal regulations are amended by adding thereto the following additional regulations:—

" 14. For the purposes of Regulations 15 to 29 hereof, 'purchasing notice' means a notice of the kind set out in Regulation 15 hereof.

" 15. Any requisitioning notice given by the Director of Sea Transport or any subsequent notice given in respect of a vessel in respect of which a notice under Regulation 4 hereof has already been given may provide that the entire ownership of such vessel shall either upon service of the notice or at such later date as the notice may specify or indicate pass to His Majesty the King. If no other date be specified, the ownership shall pass upon service of the notice.

* Statutory Regulations 1939, Serial number 1939/120.

“ 16. Any purchasing notice shall, unless otherwise specified, be deemed to include all equipment, stores, and gear, including spare parts, for the time being in or upon and used or available for use in connection with the vessel to which the notice relates and all equipment and gear belonging to the vessel, including spare parts, which for the time being may not be in or upon the vessel :

“ Provided that a purchasing notice may expressly exclude the whole or any part of such stores as aforesaid or of any such gear as aforesaid which is not essential for the ordinary use of the vessel.

“ 17. Upon the taking effect of a purchasing notice, the vessel therein described shall vest in His Majesty free and discharged from all charter parties, mortgages, bills of sale, and other interests therein and encumbrances thereon.

“ 18. As soon as may be after service of a purchasing notice, the Director shall notify to the owner, agent, or master of the vessel concerned the price which he is prepared to pay for the vessel.

“ 19. To enable the Director to assess a price which he is prepared to pay, every owner and agent of any vessel in respect of which a purchasing notice has been given shall permit the Director or any person authorized by him in writing in that behalf to inspect and make copies of all books, papers, and accounts of the owner and agent relating to the vessel.

“ 20. The price to be paid for the vessel shall be the fair market value thereof at the date of acquisition together with any special value to the owner due to the use made by him of the vessel, but excluding any enhancement of value arising from war conditions and their effect on the market, and excluding also any consideration of special value due to the fact that it is a component of a fleet or service.

“ 21. The Director shall as soon as may be give notice of the purchasing notice and of the price which he is prepared to pay for the vessel to every person appearing from the register established under the Merchant Shipping Act, 1894 (Imperial), or the Chattels Transfer Act, 1924, or the register of charges established under the Companies Act, 1933, as the case may be, to have any interest in or mortgage, charge, or encumbrance upon the vessel, or to the agent in New Zealand of every such person, and also to every other person having any interest in or mortgage, charge, or encumbrance upon the vessel whose name and address in New Zealand are known to the Director.

“ 22. If the owner and every person having any interest in or mortgage, charge, or encumbrance upon the vessel are not prepared to accept the price notified by the Director and the parties are unable to agree upon a price, the owner or any such person as aforesaid or the Director may apply to a Magistrate to fix the price to be paid.

“ 23. Such application shall be made to a Magistrate exercising jurisdiction in the Magistrate's Court held nearest to the place where the vessel was situate at the time of service of the purchasing notice; but it shall be lawful for any other Magistrate to act in any proceedings in the place of the Magistrate to whom application is made.

“ 24. Such application shall be by notice of motion to be served by the party moving on all other parties comprising the owner and the Director and every person appearing from the register as aforesaid or

known or believed by the party moving to have any interest in or mortgage, charge, or encumbrance upon the vessel if such person's address in New Zealand or the address of any agent of his in New Zealand is known to the party moving.

“ 25. (1) The Magistrate may direct the Public Trustee to represent any person whose address is not known or who is absent from New Zealand and is not known to have any agent in New Zealand with power to act in such proceedings.

“ (2) The Public Trustee when acting under and pursuant to such direction shall not be personally liable to pay the costs of any other party to the proceedings. There shall be paid to the Public Trustee out of the moneys to be paid for the vessel his costs of representation as between solicitor and client, together with such other remuneration, if any, for his services as the Magistrate shall fix.

“ 26. The Magistrate shall appoint for the hearing of the application such time and place as he thinks most convenient in the interests of the parties, and may exercise for the purposes of the application any jurisdiction vested in him by the Magistrates' Courts Act, 1928, irrespective of the value of the subject-matter.

“ 27. In any proceedings the Director of Sea Transport may be joined by the style of his office without his personal name and may be served by registered-post letter addressed to him by the style of his office at the Head Office of the Marine Department at Wellington or by being delivered at that office addressed as aforesaid.

“ 28. Before payment of the price of a vessel, whether fixed by agreement or by award of a Magistrate, is made to the owner thereof, the Director may require evidence by statutory declaration as to the existence of any interests or encumbrances affecting the vessel, and may require an indemnity from the owner against the claims of all persons having any interest or encumbrance affecting the vessel the existence of which is not disclosed to the Director.

“ 29. If any question arises as to what equipment, stores, or gear are included in any purchasing notice, then if the price is to be fixed by a Magistrate and the question has not theretofore been decided it shall be decided by the Magistrate, and in any other case it shall be decided by the arbitration of one indifferent person if the parties can agree upon one, otherwise by the arbitration of two arbitrators, one to be appointed by the owner of the vessel and the other by the Director, or of their umpire in accordance with the Arbitration Act, 1908.”

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