

Serial Number 1940/110.



THE SHIPPING SAFETY EMERGENCY REGULATIONS 1940.

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 11th day of June, 1940.

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.

REGULATION 1.—PRELIMINARY.

(1) These regulations may be cited as the Shipping Safety Emergency Regulations 1940.

(2) In these regulations, unless the context otherwise requires,—

“Cargo” includes any goods or merchandise on or about a wharf having been unloaded from a ship or awaiting shipment :

“Customs examination officer”, in relation to any port, means the Collector of Customs at that port, and includes any other officer of Customs for the time being authorized by the Collector to act as a Customs examination officer at that port for the purposes of these regulations :

“Naval authority” means any officer of His Majesty’s Naval Forces for the time being authorized by the Naval Board of New Zealand to act as a naval authority for the purposes of these regulations, whether generally or in respect of any particular area :

“Officer of Customs” means any person employed in the service of the Customs Department :

“Owner” includes any charterer of a ship, and also includes any representative in New Zealand of an owner or charterer who is outside New Zealand :

“Port” means a port of entry under the Customs Act, 1913 :

“Ship” means any kind of vessel used in navigation, not propelled by oars only :

“Transport” means any ship for the time being declared by the Minister of Defence under clause (3) of this regulation to be a transport for the purposes of these regulations :

“Wharf” includes any wharf, quay, pier, jetty, or other place used or capable of being used for the loading or unloading of ships or for the storage of cargo immediately prior to loading on a ship or subsequent to unloading and prior to delivery from the wharf ; and also includes any place belonging to or in the possession of or under the control of a Harbour Board ; and also includes any railway or public highway so far as it intersects or is contiguous to or runs on any such wharf, quay, pier, jetty, or other place as aforesaid.

(3) The Minister of Defence may at any time, by writing under his hand, declare any ship, whether it is employed in carrying troops or not, to be a transport for the purposes of these regulations. Any declaration under this clause may be at any time in like manner amended or revoked.

REGULATION 2.—SHIPS' GUARDS.

(1) At all times when any ship is moored alongside any wharf or is in any harbour in New Zealand the owner and the master of the ship shall station and maintain a sufficient guard on each gangway by which the ship can be entered.

(2) At all times when any ship is engaged in receiving or discharging cargo, stores, or baggage in New Zealand the owner and the master of the ship shall station and maintain thereon a sufficient guard charged with the duty of superintending the receipt, stowage, and discharge of the cargo, stores, or baggage, and of using due care for the protection of the ship and its cargo, stores, and baggage from all attempts against the safety thereof.

(3) Any naval authority may from time to time give instructions to the owner or the master of any ship as to the nature of the guard or guards to be maintained under this regulation and as to the duties with which any such guard is to be charged, and it shall be the duty of the owner and the master to obey all such instructions.

(4) Subject to the instructions of any naval authority, any guard maintained on any ship under this regulation—

- (a) May be armed, and may fire upon or otherwise attack any person who, by day or night, in disregard of a warning received from the guard, approaches, enters, or leaves, or attempts to approach, enter, or leave, the ship :
- (b) May arrest without warrant any person who commits or is reasonably suspected of having committed or of being about to commit an offence against these regulations.

REGULATION 3.—PERMITS TO BOARD SHIPS.

(1) No person shall enter on board any ship while it is moored alongside any wharf or is in any harbour in New Zealand except pursuant to a permit for the time being in force under these regulations.

(2) Clause (1) of this regulation shall not apply to any person who belongs to any of the following classes and who produces such evidence thereof as may from time to time be prescribed by the Minister of Defence in the case of transports or by the Minister in Charge of the Police Department in any other case or required by any guard, namely:—

- (a) Constables and officers of Customs who enter any ship on duty :
- (b) Members of His Majesty's Naval Forces who enter any ship on duty :
- (c) Persons employed by the harbour authorities who enter any ship on duty :
- (d) Persons employed in connection with the loading or unloading of cargo who enter any ship on duty :
- (e) Members of the crew of any ship who enter that ship :
- (f) Persons who have engaged a passage in any ship entering that ship :
- (g) Members of His Majesty's Military Forces who enter any transport on duty :
- (h) The owner or agent of any ship (not being a transport) entering that ship, and persons employed by the owner or agent and entering any such ship on duty.

(3) Permits to enter on board any transport may be granted by any person authorized in that behalf by the Minister of Defence. Every such person shall in the exercise of his functions under this regulation be subject to the control of the Minister of Defence, and shall act in accordance with all directions, general or special, given to him by that Minister.

(4) Permits to enter on board any ship not being a transport may be granted by the owner or agent of the ship, or by any other person authorized in that behalf by the Minister in charge of the Police Department. Every such person shall in the exercise of his functions under this regulation be subject to the control of the Minister in Charge of the Police Department, and shall act in accordance with all directions, general or special, given to him by that Minister.

(5) Every permit under this regulation shall be in a form approved by the Minister of Defence in the case of transports or by the Minister in Charge of the Police Department in all other cases. Unless the appropriate Minister otherwise directs, permits shall not be issued except on forms supplied by the appropriate Minister.

(6) Every person who grants any permit under this regulation shall keep a register in which he shall enter the number of every permit granted by him; the name of the person to whom it is granted, particulars of the ship or ships and of the time or times for which it is granted, and such other particulars or information as may from time to time be directed by the Minister of Defence in the case of transports or by the Minister in Charge of the Police Department in any other case. Any constable or any other person authorized in that behalf by the appropriate Minister may at any time inspect any such register and take copies of its contents or any part thereof.

(7) The master or any officer of the ship, or any guard upon the ship, or any constable, or officer of Customs may give such directions as he thinks fit to any person who enters or is about to enter on board any ship for regulating his conduct while on board the ship, whether in relation to anything that he has with him or otherwise.

REGULATION 4.—APPROACH TO SHIPS.

(1) It shall not be lawful for any boat, launch, or other craft or vessel whatsoever at any time after sunset and before sunrise to approach any ship at any distance less than 50 yards therefrom in any port unless the approaching boat, launch, craft, or vessel carries and exhibits a bright light visible from the deck of the ship approached by it, or (whether any such light is carried or not) in disregard of any challenge, warning, or order received from any person on board the ship approached.

(2) Every person who causes or permits any boat, launch, craft, or vessel to approach any ship in contravention of this regulation commits an offence against these regulations.

(3) Any boat, launch, craft, or vessel approaching a ship in disregard of any challenge, warning, or order received from any officer or guard on board the ship approached may be fired upon by that officer or guard.

REGULATION 5.—CONTROL OF ADMISSION TO WHARVES.

(1) Any constable may direct any person not to enter or remain upon any wharf or loiter in the vicinity of any entrance to a wharf.

(2) Any constable may give such directions as he thinks fit to any person who enters or remains or is about to enter upon any wharf for regulating his conduct while on the wharf, whether in relation to anything that he has with him or otherwise.

(3) Every person who acts in contravention of or fails to comply in any respect with any direction given under this regulation shall be liable on summary conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding £20.

REGULATION 6.—EXCLUSION OF UNDESIRABLES FROM WHARVES AND SHIPPING.

(1) Where any officer of the Police Force of a rank not lower than that of Sub-Inspector is satisfied that the conduct or character of any person is such that his exclusion from wharves and shipping is desirable in the interests of the public safety, the officer may, by order in writing, warn that person off all wharves and ships.

(2) Every such order shall take effect as soon as the making thereof has been brought in any manner to the knowledge of the person against whom it is made.

(3) If while any such order remains in force the person against whom it is made enters or remains upon any wharf or ship or loiters in the vicinity of any entrance to a wharf, he commits an offence against these regulations.

(4) Any order made by any officer under clause (1) of this regulation may at any time by order in writing be revoked by the same officer or by any other officer who is authorized to make orders under that clause.

REGULATION 7.—EXAMINATION OF CARGO, STORES, BAGGAGE, ETC.

(1) In this regulation the term "cargo" includes stores, baggage, receptacles, and other goods and articles of any description whatsoever.

(2) While any ship is in any port no cargo shall be loaded, taken, or placed on board the ship for export in that ship until it has been passed for shipment thereon by a Customs examination officer.

(3) A Customs examination officer shall not pass any cargo for shipment as aforesaid if he suspects that the shipment thereof will be a source of danger to the ship or to any cargo, passengers, or members of the crew thereof.

(4) The person who ships any cargo on any ship for export in that ship shall take all reasonable precautions to ensure that the cargo does not constitute a source of danger as aforesaid, and he shall make a written declaration in the form in the Schedule to these regulations, to be delivered to the Customs examination officer prior to shipment of the cargo :

Provided that a declaration under this clause need not be made—

(a) In the case of baggage belonging to and accompanying passengers in the ship ; or

(b) In any other case in which the declaration is dispensed with by the Customs examination officer.

(5) Where any cargo is shipped on any ship in any port for exportation in another ship from another port, the last preceding clause shall apply with respect to the shipment of the cargo on the first-mentioned ship as well as to its shipment on the ship in which it is to be exported.

(6) A Customs examination officer may, if he thinks fit, open or require to be opened for the purpose of examination any package or receptacle brought or found upon any wharf or intended for shipment on any ship. All labour necessary for the examination of any cargo shall be supplied by or at the expense of the shipper thereof.

(7) A Customs examination officer may in any case in which he is of opinion that the effective examination of any cargo brought upon any wharf or intended for shipment on any ship is for any reason impracticable, refuse to examine the cargo or to pass it for shipment until the expiry of such period as he deems necessary for the purpose of ascertaining that the shipment thereof will not be a source of danger to the ship or to any cargo, passengers, or members of the crew thereof, and in the meantime may, if he thinks fit, take and retain possession of the cargo.

(8) A Customs examination officer may require any person who is or has been in any manner concerned in loading, taking, or placing on board a ship, or upon a wharf for shipment, or in packing or otherwise preparing for shipment, any cargo, to answer any questions as to the nature, contents, ownership, origin, or preparation for shipment of that cargo, or any other questions in relation thereto that the Customs examination officer thinks material in the execution of his office under these regulations. Any person who fails to answer to the best of his knowledge any question so submitted to him, or who answers any such question falsely, commits an offence against these regulations.

(9) A Customs examination officer, or any constable with the authority of a Customs examination officer, may enter upon any warehouse, store, building, or other place whatsoever in which he has reason to believe that any cargo intended for shipment may be situated, and may examine the same and every part thereof and all cargo found therein.

REGULATION 8.—POWERS OF ARREST AND SEARCH.

(1) Any constable or officer of Customs or the master or any officer of any ship may arrest without warrant any person who commits or is reasonably suspected of having committed or of being about to commit an offence against these regulations.

(2) Any constable or officer of Customs may search and detain for the purpose of search any person, conveyance, package, or receptacle of any description found on or about any wharf or ship, and may for this purpose enter upon any wharf or ship.

REGULATION 9.—DELEGATION OF POWERS BY MINISTERS.

(1) Any 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 under these regulations.

(2) Subject to the next succeeding clause, every person to whom any powers or functions are delegated under this regulation 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 to the control of the Minister by whom the delegation is made, 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 in any of His Majesty's Forces or otherwise.

REGULATION 10.—EXEMPTIONS.

(1) The Minister in charge of the Police Department may from time to time, by order in writing, grant complete or partial exemption from compliance with the provisions of these regulations or with any instruction, direction, restriction, requirement, or condition given or imposed under these regulations.

(2) Any order under this regulation may be at any time in like manner amended or revoked.

REGULATION 11.—GRANTING OF PERMITS AND EXEMPTIONS.

(1) Every person who applies to the Minister in Charge of the Police Department or to any other person for any permit or exemption under these regulations shall furnish such information and particulars as the Minister or other person may from time to time require.

(2) Subject to the provisions of these regulations, the Minister or other person, 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 permit or exemption granted under these regulations may be at any time revoked by the Minister (whether or not he granted it) or by the other person (if any) by whom it was granted, and any condition upon or subject to which any such permit or exemption is granted may from time to time be varied, revoked, or added to by the Minister or by the other person (if any) who grants the permit or exemption.

REGULATION 12.—OFFENCES.

- Every person commits an offence against these regulations who—
- (a) By any act or default, whether wilful or negligent, endangers the safety of any ship or of any cargo, passengers, or members of the crew of any ship :
 - (b) Being an owner, master, agent, or member of the crew of any ship, permits any person to commit an offence against these regulations in relation to that ship or negligently fails to prevent any person from committing any such offence :
 - (c) With intent to deceive, makes any false or misleading statement or any material omission in any communication with or application to the Minister in Charge of the Police Department or any other person (whether in writing or otherwise) for the purposes of these regulations :
 - (d) Resists, obstructs, or deceives any person who is exercising or attempting to exercise any power or function under these regulations :
 - (e) Without lawful excuse acts in contravention of or fails to comply in any respect with any provision of these regulations or any instruction, direction, restriction, requirement, or condition given or imposed under these regulations.

SCHEDULE.

The Shipping Safety Emergency Regulations 1940.

DECLARATION BY SHIPPER OF GOODS FOR EXPORT.

I HEREBY declare in respect of all the goods shipped by (me) (my firm) (my company) on the [*Name of ship*] for [*Destination overseas*]

- (a) That such goods are not such as would constitute a danger to the ship, its cargo, passengers, or crew ; and
- (b) That all reasonable precautions have been taken to ensure that such goods do not contain any substance or article which might constitute such a danger.

Date :

[*To be signed by shipper or a responsible employee.*]

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

Issued under the authority of the Regulations Act, 1936.

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These regulations are administered in the Police and Army Departments.