

Serial Number 1942/229



**THE SOLDIERS' WILLS EMERGENCY REGULATIONS 1939,
AMENDMENT NO. 1**

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

ORDER IN COUNCIL.

At the Government House at Wellington, this 29th day of
July, 1942.

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.

1. These regulations may be cited as the Soldiers' Wills Emergency Regulations 1939, Amendment No. 1, and shall be read together with and deemed part of the Soldiers' Wills Emergency Regulations 1939* (hereinafter referred to as the principal regulations).

2. Regulation 4 of the principal regulations is hereby revoked, and the following regulation substituted therefor:—

“ 4. (1) Words and expressions used in this regulation shall, unless the context otherwise requires, have the same meanings as in the Native Land Act, 1931 (hereinafter in this regulation referred to as the Act).

“ (2) Notwithstanding anything to the contrary in subsection (3) of section 34 of the War Legislation Amendment Act, 1916, nothing in section 11 of the Wills Act, 1837 (Imperial), shall apply with respect to any Native.

“ (3) In any case where a will has been made in New Zealand by any Native while a member of any of His Majesty's naval, military, or air forces and probate of the will, or letters of administration with the will annexed, or succession orders in pursuance of the dispositions of the will, cannot be granted by reason only of the provisions of section 170 of the Act, the Court may, notwithstanding anything to the contrary in the Act, grant probate of the will, or letters of administration with the will annexed, or succession orders in pursuance of the dispositions of the will :

* Statutory Regulations 1939, Serial number 1939/276, page 1063.

“ Provided that where the will is written in the English language the Court shall be satisfied that the testator had a knowledge of the English language sufficient to enable him to understand the effect of the will.

“ (4) No devisee under any such will as aforesaid shall be capable of taking any beneficial freehold interest in any Native land devised to him by the will unless he would be capable, according to Native custom, of taking that interest by way of intestate succession :

“ Provided that the Court may if it thinks fit appoint to him a life or other limited estate or interest in any of the land devised to him by the will.

“ (5) Nothing in this regulation shall be deemed to affect the provisions of section 178 of the Act.

“ (6) Nothing in section 175 of the Act shall apply, or be deemed to have applied, in respect of any such will as aforesaid at any time before the expiration of two years from the commencement of this regulation.

“ (7) On application made to it at any time within six months after the date of the commencement of this regulation, the Court may, in respect of any such will as aforesaid which, on the ground of informality or irregularity in the attestation of the testator's signature thereto, it has before that date declared or held to be invalid, rehear the application for the grant of probate, or letters of administration with the will annexed, or succession orders in pursuance of the dispositions of the will, and make such orders thereon as it could have made if these regulations had been in force at the date when the application was first made :

“ Provided that no distribution of any part of the estate of the testator not being Native freehold land, nor any alienation of Native freehold land being part of the estate, made before the application for rehearing shall be disturbed by reason of any order made on the rehearing.”

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

Issued under the authority of the Regulations Act, 1936.
Date of notification in *Gazette* : 30th day of July, 1942.
These regulations are administered in the Native Department.