

**1961/83**

*Reprint under section 7 of the Regulations Act 1936 of the Termites Regulations 1940 (S.R. 1940/320), as amended by the following enactments:*

Termites Regulations 1940, Amendment No. 1 (S.R. 1942/288)  
Termites Regulations 1940, Amendment No. 2 (S.R. 1951/125)

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## THE TERMITES REGULATIONS 1940 (Reprint)

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GALWAY, Governor-General

### ORDER IN COUNCIL

At the Government Buildings at Wellington this 24th day of  
December 1940

Present:

THE RIGHT HON. P. FRASER PRESIDING IN COUNCIL

PURSUANT to the Termites Act 1940, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

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### REGULATIONS

1. These regulations may be cited as the Termites Regulations 1940.
2. These regulations shall come into force on the day following notification in the *Gazette* of the making hereof.
3. (1) Within three months after the Governor-General has by Order in Council declared that any local authority shall be a local authority to which the provisions of the Termites Act 1940 (hereinafter referred to as the said Act), shall apply, the local authority shall commence to carry out an inspection of its district, and the local authority shall cause the inspection to be completed with due diligence.  
(2) When an inspection of any premises is being made a thorough examination shall be made of all poles or other erections in the neighbourhood of the premises. Following this, the site of the premises shall be examined in such a way that all fences, posts, stumps, trees, and other places likely to harbour termites are inspected. The exterior, interior, and understructure of all buildings (including outbuildings and other erections) shall then be examined.

(3) If evidence of the existence of termites is found in the course of any inspection—

- (a) The evidence of the infestation shall not be disturbed except in so far as is necessary to comply with the provisions of the next succeeding paragraph;
- (b) Samples of insects, comprising not less than 12 insects, shall be secured by the Inspector from a runway or other termite structure, but such runway or structure shall be disturbed as little as possible, and the samples shall be enclosed in a glass container, firmly stoppered and having a label which shall be signed by the Inspector and which shall show a description of the premises and the names of the owner and of the occupier thereof;
- (c) The infestation shall be described by the Inspector in a report to the local authority;
- (d) The samples of insects shall be forwarded by the local authority to the [Director of the Entomological Department of the Cawthron Institute, Nelson]; and
- (e) No notice shall be served under the said Act until the insects comprised in the sample have been identified by [the said Director] as termites.

(4) In order that the understructure or any other portion of a building in which an inspection is required shall be made available for an inspection by the Inspector, the local authority shall carry out such work as may be necessary to obtain access. The work may include the removal of weatherboards, the cutting of trap-doors in flooring, or any other necessary work:

Provided that the work shall be done in a manner least calculated to impair the use of the building.

(5) Reports to the Minister, in the form No. 1 in the Schedule hereto, shall be made by every local authority to which the said Act applies at regular intervals, being not less frequently than once in every month.

In subclause (3) (d) the words in square brackets were substituted for the words "Department of Scientific and Industrial Research, Auckland" by regulation 2 (a) of S.R. 1951/125.

In subclause (3) (e) the words in square brackets were substituted for the words "the Department of Scientific and Industrial Research" by regulation 2 (b) of S.R. 1951/125.

4. (1) No person shall commence or continue with the erection of any building within the district of any local authority to which the said Act applies unless the following conditions are complied with, namely:

- (a) That all foundation blocks are of concrete and are set to project not less than 12 in. above the ground;
- (b) That there is a clearance of not less than 21 in. from the ground to the underside of the floor-joists, except that on a sloping site the clearance may be reduced to not less than 15 in. for a distance not greater than 54 in. from any one exterior wall;
- (c) That all builders' debris, stumps, roots, and other material likely to harbour termites are removed before the flooring is laid;
- (d) That an access-trap is provided either through the foundation walls or through the floor so that inspection of the sub-floor area may be carried out;

- (e) That termite stops conforming to the requirements of subclause (2) of this regulation are fitted over the top of all concrete, brick, or stone foundation walls and foundation blocks and over the top of all other connections whatsoever between ground and building, or foundations and building;
- (f) That no steps, posts, trellis, or other similar erections are fixed less than  $1\frac{1}{2}$  in. from the building.

(2) Termite stops shall be of galvanised iron or other suitable [metal or material approved by the Minister]. They shall project  $1\frac{7}{8}$  in. beyond the vertical face, shall be not less than 12 in. above ground, shall be bent down at an angle of not less than 45 degrees, and shall have all joints lapped and soldered.

[(2A) If galvanised iron or other metal or material approved by the Minister is not available for use as termite-stopping, it shall not be necessary to comply with paragraph (e) of subclause (1) hereof, but a horizontal recess suitable for the later fixing of continuous termite-stopping along the whole of the interior face of all foundation walls and all faces of piles and other foundation blocks shall be left at a height of not less than 12 in. from the ground, such recess to have a vertical dimension of not more than 1 in. and a depth into such wall, pile, or block of not less than  $\frac{7}{8}$  in. nor more than  $1\frac{1}{8}$  in.:

Provided that the local authority may when such galvanised iron or other metal or material is available, by notice served on the owner, require the fixing of termite-stops within such reasonable time as may be specified in such notice.

(2B) The provisions of paragraphs (a) to (e) of subclause (1) hereof shall not apply to any building having an area not exceeding 240 square feet if the building has no fixed wooden floor, and if, being a building of a permanent nature, it is erected on foundations of concrete and no timber comprising part of the building is less than 12 in. above the ground.]

(3) Where any building comprised mainly of concrete or other similar material is to be so erected that there is no direct access from the ground to any timber constituting part of the building, the local authority may decide that subclause (1) of this regulation shall not apply to the building.

(4) Every person guilty of a breach of this regulation shall be liable to a fine of £20 [and to a further fine of £5 for every day or part of a day after the expiry of a notice under subclause (2A) of this regulation during which such notice is not complied with].

In subclause (2) the words in square brackets were substituted for the words "metal approved by the local authority" by regulation 4 of S.R. 1942/288.

Subclauses (2A) and (2B) were inserted by regulation 5 (1) of S.R. 1942/288.

In subclause (4) the words in square brackets were added by regulation 5 (2) of S.R. 1942/288.

5. (1) The local authority, or the Corporation on the default of the local authority, may pull down, remove, or alter any building erected in breach of these regulations.

(2) The amount of the costs, charges, and expenses incurred (whether by the local authority or by the Corporation) under subclause (1) of this regulation shall be recoverable by the local authority from the person committing the breach.

(3) The provisions of subsections (2) and (3) of section 14 of the said Act shall apply in respect of the moneys payable to a local authority under this regulation as if those moneys were moneys recoverable by the local authority under section 13 of the said Act.

(4) The amount of the costs, charges, and expenses shall be a charge on the property on which the building was erected, and the provisions of section 28 of the said Act shall apply accordingly.

(5) If the pulling down, removal, or alteration referred to in subclause (1) of this regulation is carried out by the Corporation, the amount of the costs, charges, and expenses incurred by the Corporation shall be paid by the local authority to the Corporation. Unless the total liability of the local authority to the Corporation under this regulation has been previously satisfied, all moneys received by the local authority under this regulation in respect of costs, charges, and expenses incurred by the Corporation shall, immediately upon their receipt, be paid by the local authority to a separate account to be kept at the bank where the local fund is kept, and shall be applied in or towards payment of the liability of the local authority to the Corporation under this regulation.

(6) The exercise of any right given under the foregoing provisions of this regulation shall not relieve the person committing any breach of these regulations from liability to any penalty incurred by reason of the breach.

6. (1) In this regulation the term "appeal" means an appeal under section 12 of the said Act from a notice under section 11 or section 15 of the said Act.

(2) The parties to an appeal shall be the owner or any person having any estate or interest in the land as appellant, and the local authority, or the Minister if he exercises his powers on default by the local authority, by which or by whom a notice under the said section 11 or section 15 has been issued as respondent.

(3) Every appeal shall be instituted in the Magistrate's Court nearest to the public office of the local authority in whose district the premises in respect of which the notice has been issued are situated, or in such other Magistrate's Court as may be agreed upon by the parties.

(4) Every appeal shall be instituted by the appellant by filing in the appropriate Magistrate's Court a notice in the form No. 2 in the Schedule hereto.

(5) A copy of the notice of appeal shall be delivered by the appellant to the respondent, either personally or by means of registered post. Notice of the appeal shall also be given by the appellant to such other persons (if any) as the Court may order.

(6) On the filing of the notice of appeal the Court shall set the same down for hearing, and, save with the consent of the parties, shall give to them not less than fourteen days' notice, either personally or by registered post, of the time and place of the hearing.

(7) The parties to the appeal, and such other persons as the Court may decide to hear, shall be entitled to be represented at the hearing by counsel.

(8) If either party fails to appear at the hearing the Court shall, in its discretion, adjourn the hearing or determine the appeal in the same manner as if both parties were present.

(9) The determination of the Court shall be certified in writing by the Magistrate to the parties to the appeal, and to such other persons as the Court may direct.

7. Where an application is made for an Inspector to inspect any building under section 21 of the said Act, the person making the application shall at the same time pay to the local authority in whose district the building is situated a fee of £2 2s.

8. (1) No person shall be appointed to be an Inspector of Termites under the said Act unless—

(a) He is in good health and suffers from no physical defects which may render him unfit for the carrying out of his duties as an Inspector; and

(b) He has taken the course of training referred to in the next succeeding subclause and passed a qualifying examination at the end of the course.

(2) The course of training for Inspectors of Termites shall comprise—

(a) Lectures and laboratory work in general entomology, but with special reference to termites and other wood-boring insects;

(b) Field studies with all types of termite infestations and their detection;

(c) Preparation of explanatory diagrams in connection with termite detection; and

(d) Study of the principles of the Termites Act 1940, and the regulations thereunder.

(3) Courses of training and examinations for Inspectors of Termites shall be conducted at such intervals as the Corporation shall determine and by or under the supervision of such persons as may be appointed for the purpose by the Corporation.

(4) On the Corporation being satisfied that any person has taken the course of training and passed a qualifying examination, it may issue to that person a certificate under its seal to that effect.

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## SCHEDULE

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### Form No. 1

To the Minister of Housing,  
Wellington.

REPORT UNDER REGULATION 3 OF THE TERMITES REGULATIONS 1940,  
FOR THE PERIOD FROM ....., 19....., TO ....., 19.....

THE [Insert name] Council (or Board) during the period above mentioned caused inspections to be made of the following portions of its district:  
[Here insert particulars of portions inspected].

Set out hereunder is a list giving particulars of all termite infestations which were found, together with particulars of the action which was taken in each case.

SCHEDULE—*continued*

## LIST GIVING PARTICULARS OF TERMITE INFESTATIONS

1. [*Give particulars, enumerating cases numerically.*]

Further action as mentioned hereunder has been taken in respect of termite infestations mentioned in previous reports:

[*State further action, giving reference to earlier reports by date of report and number of case.*]

*Summary*

Total number of properties inspected to date of this report: .....

Total number of properties in which termite infestation has been found:  
.....

Dated this ..... day of ....., 19.....

C.D.,

Clerk to the [*Insert name*] Council (*or Board*).

## Form No. 2

NOTICE OF APPEAL AGAINST NOTICE UNDER THE TERMITES  
ACT 1940

In the Magistrate's Court held at .....—In the matter of the Termites Act 1940; and in the matter of a notice issued thereunder by [*Name of local authority, or as the case may be*] with respect to the premises herein described—namely, [*Set out description of premises sufficient to identify them*].

TAKE notice that I [*Name and description of appellant*], being the owner [*If other than fee simple, state estate or interest owned*] of the premises herein described, hereby appeal against a notice issued under the Termites Act 1940 in respect of the said premises by [*Name of local authority, or as the case may be*], and dated the ..... day of ....., 19....., upon the grounds that [*Here set out grounds of appeal*].

Dated at ....., this ..... day of ....., 19.....

*Signature of appellant.*

To the Registrar of the Magistrate's Court at ....., and to the [*Name and description of respondent*].

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

*Certified for the purposes of section 7 of the Regulations Act 1936, this 14th day of July 1961.*

J. R. HANAN, Attorney-General.

Issued under the authority of the Regulations Act 1936.  
Date of notification of principal regulations in *Gazette*: 9 January 1941.  
These regulations are administered in the State Advances Corporation.