



**THE WAR DAMAGE REGULATIONS 1941,
AMENDMENT NO. 3**

C. L. N. NEWALL, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington, this 24th day of
December, 1943

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the War Damage Act, 1941, 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 War Damage Regulations 1941, Amendment No. 3, and shall be read together with and deemed part of the War Damage Regulations 1941* (hereinafter referred to as the principal regulations).

2. Regulation 2 of the principal regulations is hereby amended, as from the commencement of the principal regulations, by adding to the definition of the term "mortgage" the words "but does not include any security for death duty, Native succession duty, gift duty, or stamp duty".

3. (1) The principal regulations are hereby amended by revoking Regulation 7, and substituting the following regulation:—

"7. (1) The rate of the premium payable in respect of the insurance of any property against war damage to any amount for any period, whether by virtue of section 14 of the Act or under a contract made under section 15 of the Act,—

"(a) Where the period is one year, shall be 1s. per cent. of that amount; and

"(b) In the case of any other period, shall be 1d. per cent. of that amount for every month or part of a month comprised in that period.

"(2) No such premium shall be less than 1s.

* Statutory Regulations 1941, Serial number 1941/246, page 802.

Amendment No. 1: Statutory Regulations 1942, Serial number 1942/84, page 185.

Amendment No. 2: Statutory Regulations 1943, Serial number 1943/30, page 54.

“(3) For the purposes of this regulation any period commencing at any time on any day of a calendar month and ending at the same time on the corresponding day of the next calendar month shall be deemed to be one month.”

(2) The regulations intituled the War Damage Regulations 1941, Amendment No. 2, are hereby consequentially revoked.

4. (1) Regulation 3 hereof shall apply with respect to all insurances against war damage for periods commencing on or after the 1st day of March, 1944.

(2) The premiums payable in respect of any such insurances for periods commencing before that date shall be computed as if Regulation 3 hereof had not been made :

Provided that for the purpose of computing the amount of any refund that may be payable upon the cancellation or reduction of any insurance on or after the 1st day of March, 1944, the war damage premium shall be deemed to have been paid at the rate payable by virtue of Regulation 3 hereof.

5. The principal regulations are hereby further amended, as from the 1st day of March, 1943, by inserting, after Regulation 7, the following regulation :—

“7A. (1) Notwithstanding anything to the contrary in paragraph (b) of subclause (1) of Regulation 7 hereof, where any property of a class that is customarily insured for periods of one year is insured against war damage for a period of less than a year, whether by virtue of section 14 of the Act or under a contract made under section 15 of the Act, the premium shall be computed as if the insurance were for a period of one year.”

6. Regulation 13 of the principal regulations is hereby amended, as from the commencement of the principal regulations, by inserting in subclause (1), after paragraph (b), the following paragraph :—

“(bb) (i) The proportion of the war damage premium or premiums payable by the mortgagee under any mortgage shall not exceed the amount of the interest payable under the mortgage for the preceding year :

“(ii) The amount by which the proportion of the war damage premium payable by the mortgagee under any mortgage is reduced under subparagraph (i) hereof shall be payable by the mortgagor, unless the property is subject to any other mortgage or mortgages, in which case it shall be payable by the mortgagor and the mortgagees under the other mortgage or mortgages in the same proportions as if the property were not subject to the first-mentioned mortgage :

“(iii) For the purposes of this paragraph the expression ‘the preceding year’ means the period of twelve months ending on the last half-yearly or other regular date for the computation of interest before the making of the contract of fire insurance or war damage insurance or, where there is no such regular date, means the period of twelve months ending on the last day of the month preceding the month in which the contract is made, and where the mortgage has been in existence for part only of the preceding year the interest actually payable for that part of the year shall be deemed to be increased by the proportion that one year bears to that part of the year :

“(iv) The proportion of the war damage premium payable by any mortgagee under the foregoing provisions of this paragraph shall be proportionately increased or reduced if the period in respect of which the contract of insurance is made is greater or less than a year:”.

7. (1) Regulation 13 of the principal regulations is hereby further amended by inserting in subclause (1), after paragraph (c), the following paragraph:—

“(cc) No action for the recovery of any amount under paragraph (c) hereof shall be commenced except within two years after the payment of the premium:

Provided that a failure to commence an action within the time hereby limited shall be no bar to the action if, in the opinion of the Court, the failure was occasioned by mistake, or by absence from New Zealand, or by any other reasonable cause:”.

(2) Paragraph (d) of Regulation 13 (1) of the principal regulations is hereby amended by omitting the words “at any time”, and also by adding at the end of the paragraph the words “at any time within two years after the payment of the premium”.

8. Regulation 13 of the principal regulations is hereby further amended, as from the commencement of the principal regulations, by inserting in subclause (1), after paragraph (d), the following paragraph:—

“(dd) Any person who is bound to pay the war damage premium by any contract or agreement with the mortgagor shall have the same rights under the foregoing provisions of this subclause as if he were the mortgagor:”.

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

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette*: 13th day of January, 1944.

These regulations are administered in the office of the War Damage Commission.