



THE
NEW ZEALAND GAZETTE
 EXTRAORDINARY.

Published by Authority.

WELLINGTON, THURSDAY, SEPTEMBER 7, 1939.

The Enemy Property Emergency Regulations 1939.

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 7th day of
 September, 1939.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

PURSUANT to the Public Safety Conservation Act, 1932, and to a Proclamation of Emergency now in force under that Act, 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 Enemy Property Emergency Regulations 1939.
- (2) In these regulations, unless inconsistent with the context,—
 - (i) “ Alien enemy ” means every person wherever resident who is, or who has at any time been, a subject of any State with which His Majesty is now at war, notwithstanding the fact that such person may be also by birth, naturalization, or otherwise a British subject or have in any manner ceased to be a subject of any such State, and includes the wife of an alien enemy :
 - (ii) “ Corporation ” means any body corporate which has a capital divided into shares and is incorporated in New Zealand or any body incorporated in New Zealand ; and in these regulations the term “ person ” includes a body corporate so far as such regulations are capable of application to bodies corporate :
 - (iii) “ Enemy ” means any person or body of persons of whatever nationality (and, if incorporated, wherever incorporated) resident or carrying on business in any enemy country, but does not include persons of enemy nationality who are neither resident nor carrying on business in an enemy country, and includes any person, firm, or company declared to be an enemy trader under the provisions contained in the Enemy Trading Emergency Regulations 1939:

- (iv) "Enemy company" means a company which is incorporated in enemy territory or in or over which any enemy or any other enemy company possesses or exercises any substantial interest or control :
- (v) "Enemy country" means the territories of and includes also any territory for the time being in the occupation of the military forces of the Government of the German Reich :
- (vi) "Enemy property" means all property, real or personal, which belongs to an enemy or alien enemy or in which an enemy or alien enemy has any interest, and includes all money owing or payable to an enemy or to any person on behalf of an enemy or alien enemy :
- (vii) "Outbreak of war" means the proclamation of the state of war between His Majesty and the Government of the German Reich on the 3rd day of September, 1939 :
- (viii) "Prisoner of war" means any person detained in New Zealand under the order of a military authority or otherwise detained as a prisoner of war, and for the purposes of these regulations shall include any enemy whose arrest has been authorized by a military authority, although he has not yet been actually arrested.

REGULATION 2.—CUSTODIAN OF ENEMY PROPERTY.

The Public Trustee shall in his official and corporate capacity be the Custodian of Enemy Property for the purposes of these regulations.

REGULATION 3.—NOTIFICATIONS OF ENEMY PROPERTY.

(1) Within fourteen days after the coming into force of these regulations every person who on the coming into force of these regulations holds, or has the possession, management, or control of, any enemy property shall by notice in writing communicate the fact, together with full particulars of such property, to the Custodian of Enemy Property at the Public Trust Office at Wellington, and every such person shall thereafter from time to time give to the Custodian such further information relative to that property as he may require.

(2) Every person shall, within fourteen days after he begins to hold, possess, manage, or control any enemy property, or after any property held, possessed, managed, or controlled by him becomes enemy property, communicate the fact by notice in writing to the Custodian of Enemy Property at the Public Trust Office at Wellington, together with full particulars of that property, and shall from time to time thereafter give to the Custodian such further information relative to that property as he may require.

(3) All notifications of enemy property under the two last preceding clauses hereof shall be made in accordance with the Schedule hereto and under the several headings specified in that Schedule.

(4) Every enemy shall, if so required by the Custodian of Enemy Property, within fourteen days after being so required, give to the Custodian such particulars as he requires as to all property of the value of £50 or upwards, whether situated in New Zealand or elsewhere, which belongs to that enemy or in which he is interested.

REGULATION 4.—VESTING OF ENEMY PROPERTY.

(1) The Attorney-General may, by order signed by him, vest any enemy property or any specified estate or interest in enemy property in the Custodian of Enemy Property, and such property, estate, or interest shall thereupon vest in the Public Trustee as Custodian of Enemy Property accordingly as if it had been lawfully and with full authority transferred to the Public Trustee by all persons entitled thereto, subject, however, to any mortgage, charge, lien, or encumbrance to which such property, estate, or interest was subject at the time of the making of the order.

(2) An order signed by the Attorney-General as aforesaid shall be conclusive evidence that the property or estate or interest in property therein referred to is enemy property within the meaning of these regulations.

(3) Upon the making of an order as aforesaid the Custodian of Enemy Property shall be entitled to the possession, occupation, and enjoyment of the property or estate or interest in property therein referred to according to the nature and quality thereof.

(4) Where the property, estate, or interest so vested in the Public Trustee as Custodian of Enemy Property is an estate or interest in land registered under the Land Transfer Act, 1915, the District Land Registrar shall, upon an application for transmission made by the Public Trustee as Custodian of Enemy Property, and upon production by him of the order, cause the Public Trustee, as Custodian of Enemy Property, to be registered as the proprietor of such estate or interest subject as aforesaid.

(5) If the District Land Registrar is satisfied that the certificate of title, lease, mortgage, or other instrument of title to such estate or interest is not in the possession of the Public Trustee, and that production thereof cannot for the time being reasonably be obtained, he may dispense with production thereof.

(6) When any such order relates to any property, right, or interest which is evidenced by the issue of shares, scrip, or debentures or certificates, or is evidenced by registration in the books or registers of any corporation or authority, local or Government, it shall be the duty of such corporation or authority to register the Public Trustee, as Custodian of Enemy Property, as owner of the property, right, or interest concerned on production by the Public Trustee of the order or a certified copy thereof, notwithstanding the non-production of any scrip, share-certificate, debenture-certificate, or other document of title.

(7) Nothing in the regulations or constitution of any corporation shall in any manner take away or restrict the obligation of the company so to register the Public Trustee, as Custodian of Enemy Property, as the owner of the property, right, or interest concerned.

(8) If any corporation or authority makes default in so registering the Public Trustee, as Custodian of Enemy Property, as the owner of any property, right, or interest, every director, manager, and secretary of that corporation or authority shall be guilty of an offence against these regulations.

REGULATION 5.—TRANSFERS BY CUSTODIAN OF ENEMY PROPERTY.

(1) On the execution, in such manner as the Public Trustee thinks fit, of a transfer by the Public Trustee, as Custodian of Enemy Property, of the title to any property, right, or interest vested in him under the last preceding regulation, and on a request of the Public Trustee, as Custodian of Enemy Property, to register such transfer, it shall be the duty of the corporation or authority, notwithstanding anything to the contrary in the regulations or constitution of the corporation or authority, to register the transferee as the owner of the property, right, or interest so transferred, notwithstanding the non-production of any scrip, share-certificate, debenture-certificate, or other document of title.

(2) A statement or recital in any transfer, conveyance, assignment, lease, or other disposition of such property or such estate, right, or interest therein shall, respecting any matter of fact in relation to such transfer, conveyance, assignment, lease, or other disposition, be sufficient evidence of the facts therein stated or recited.

(3) If any corporation or authority makes default in complying with a request of the Public Trustee, as Custodian of Enemy Property under this regulation, to register any transfer by him, every director, manager, and secretary of that corporation or authority shall be guilty of an offence against these regulations.

REGULATION 6.—PAYMENTS AND DELIVERY TO CUSTODIAN.

(1) All rents, dividends, interest, shares of profits, and other income being enemy property shall be paid to the Custodian of Enemy Property.

(2) Every such payment shall, in the case of moneys already so due and payable at the date of the coming into force of these regulations, be made within fourteen days after the coming into force of these regulations, and shall in all other cases be made within fourteen days after the day on which such moneys become due and payable, or after any later day on which the person to or on behalf of whom they are due and payable becomes an enemy.

(3) In the case of all moneys being enemy property (other than rents, dividends, interest, shares of profits, and income as aforesaid) the Custodian of Enemy Property may, if he thinks it expedient in the public interest, demand payment of such moneys from the person by whom they are so payable; and the person on whom such demand is made shall forthwith, or so soon as may be reasonably practicable, pay such moneys to the Custodian accordingly.

(4) Every person having in his possession or control any enemy property, being share-certificates, debentures, bonds, instruments of mortgage, or other securities for money, or documents of title to land or any estate or interest therein, or to any other property, shall, on demand made by the Custodian of Enemy Property, forthwith deliver the same to the Custodian.

(5) Money owing or payable to an enemy or alien enemy or to any person on behalf of an enemy or alien enemy shall be deemed to be enemy property held by the person by whom it is owing or payable, and also by the agent, attorney, or representative of that person in New Zealand.

(6) Shares owned by or on behalf of an enemy or alien enemy in any company incorporated in New Zealand or carrying on business in New Zealand shall be deemed to be enemy property held by the company, and also by the attorney or manager of that company in New Zealand.

(7) Property owned jointly or in common by an enemy or alien enemy and by any person in New Zealand shall be deemed to be enemy property held by such person in New Zealand.

(8) All bank balances and other sums payable on demand shall be deemed to become or to have become due and payable at any time at which such demand might lawfully have been made if a state of war had not existed.

REGULATION 7.—PROPERTY OF BRITISH-BORN WOMEN.

(1) This regulation applies to every woman who, being a British subject by birth, has by virtue of a marriage entered into before the coming into force of these regulations become an alien enemy within the meaning of these regulations.

(2) Unless the Attorney-General by notice in writing given to the woman concerned or her agent otherwise directs, the following provisions of these regulations shall not apply to a woman to whom this regulation applies or to property which is enemy property within the meaning of these regulations by reason only of the interest of such woman therein—namely, Regulation 3, relating to notifications of enemy property; Regulation 4, relating to vesting of enemy property; and Regulation 6, relating to payments and delivery to the Custodian of Enemy Property.

(3) Within fourteen days of the coming into force of these regulations every woman to whom this regulation applies, and every person acting in a matter in which such a woman has an interest, who holds or has the possession, management, or control of any property which is enemy property within the meaning of these regulations by reason of the interest of such woman therein shall give notice in writing to the Custodian of Enemy Property at the Public Trust Office at Wellington setting out the full name and address of the woman concerned and brief details of her circumstances and property.

(4) Within fourteen days after any woman to whom this regulation applies begins to hold, possess, manage, or control any property, such woman, and also every person who is acting in a matter in which such woman has an interest or who has the possession, management, or control of any such property as aforesaid, shall give notice in writing to the Custodian of Enemy Property at the Public Trust Office at Wellington setting out the full name and address of the woman concerned and brief details of her circumstances and property.

(5) The Attorney-General may from time to time, by notice in writing given to the woman concerned or her agent, and also to the Custodian of Enemy Property, direct that all or any of the provisions of the regulations referred to in clause (2) of this regulation shall thereafter apply to such woman and to her property, and any such notice may at any time be added to, amended, or withdrawn, and the exemptions set out in clause (2) of this regulation shall as regards such woman and her property be varied according to the tenor of any notice given under this clause and for the time being in force.

REGULATION 8.—TRANSFERS OF PROPERTY.

(1) No person shall, without the previous written permission of the Attorney-General, be in any manner concerned in the transfer of any enemy property from an enemy to any other person, or in the acquisition by any person of any charge or other interest in or over any enemy property, or in the registration or recording of any such transfer or acquisition.

(2) Every conveyance, transfer, assignment, demise, charge, encumbrance, or disposition of enemy property or any estate or interest therein made after the coming into force of these regulations, unless made by the Custodian of Enemy Property or with the previous written permission of the Attorney-General, shall be wholly void, except in so far as the Attorney-General, upon being satisfied that the same was made or taken in good faith and without intent to evade these regulations, shall by a certificate under his hand wholly or partly ratify or approve of the same after the making thereof.

(3) No person shall, without the previous written permission of the Attorney-General, acquire or be concerned in the acquisition of the undertaking or business, or of any part of the undertaking or business, of an enemy, or carry on or profess to carry on business as the successor of an enemy.

(4) No person shall, except with the previous written consent of the Attorney-General, directly or indirectly send or transmit any enemy property out of New Zealand, or deal with enemy property in any manner whatever with intent to reduce such property or the proceeds of the sale, realization, or disposition thereof, into the possession of an enemy or of any person out of New Zealand on behalf of an enemy, or with intent otherwise to make the same available out of New Zealand by or for the benefit of an enemy.

REGULATION 9.—CONTROL OF ENEMY BUSINESSES.

(1) The Minister of Industries and Commerce may, by Warrant published in the *Gazette*, appoint the Public Trustee as the Controller of the business of any person, firm, or company declared to be an enemy trader under the Enemy Trading Emergency Regulations 1939. Any such appointment may at any time in like manner be revoked.

(2) Subject to the provisions of clause (9) of this regulation, the Controller when so appointed shall have the following powers in respect of the business of the person, firm, or company so declared to be an enemy:—

- (a) To take and retain possession of all property whatever then or thereafter belonging to that person, firm, or company in respect of the business so controlled:
- (b) To collect, receive, and retain all moneys payable to that person, firm, or company in respect of the business so controlled:
- (c) Out of any moneys received by him as Controller to pay and discharge any debts or liabilities of that person, firm, or company on such evidence as seems to the Controller sufficient:

- (d) To sell the stock-in-trade and other chattels belonging to that person, firm, or company in respect of the business so controlled, whether by sale in the usual course of that business, or by tender, public auction, or otherwise as the Controller thinks fit :
 - (e) To carry on or permit to be carried on the business of that person, firm, or company so far as the Controller deems necessary for the winding-up of that business and the realization of the assets thereof :
 - (f) To carry on or permit to be carried on the business of that person, firm, or company so far as the Minister of Industries and Commerce considers it desirable in the public interest that the business be continued :
 - (g) To exercise in the name and on behalf of that person, firm, or company all rights of action vested therein in respect of such business :
 - (h) To cancel and determine any contract which has been entered into by that person, firm, or company in the course of such business before being declared an enemy, and the performance of which may remain lawful, notwithstanding such declaration :
 - (j) To exercise any power vested in that person, firm, or company of determining or surrendering any leasehold interest possessed by that person, firm, or company in respect of such business, and to give or execute in the name of the person, firm, or company all notices or instruments required in that behalf :
 - (k) To make application to the Supreme Court for an order for the winding-up of any company so declared to be an enemy and placed under his control ; and the fact that the company has been declared to be an enemy shall be sufficient ground for the making of a winding-up order unless the Court in its discretion otherwise decides :
 - (l) To require and authorize the delivery to him from the Post Office of all postal packets and telegrams addressed to or intended for that person, firm, or company in respect of such business.
- (3) All powers conferred upon the Controller by these regulations may be exercised by him either personally or through such agent, servant, or representative as he may think fit to appoint in that behalf.
- (4) While the Controller remains in office in respect of any business it shall not be lawful for any person to be engaged in the management or conduct of that business or to act in respect of that business as an agent or servant of the person, firm, or company so declared to be an enemy, save with the permission of the Controller and so far as such permission extends.
- (5) Any remuneration payable to and all expenses incurred by the Controller in the exercise of his powers in respect of any business shall be payable out of the moneys received by him as Controller of that business.

(6) No person shall in any manner obstruct or deceive the Controller, or any agent, servant, or representative of the Controller, in the exercise or performance of any of his powers, duties, or authorities as such.

(7) Every person who is for the time being engaged or has at any time before or after the coming into force of these regulations been engaged as a director, manager, agent, servant, partner, or otherwise in the management or conduct of any business under the control of the Controller, shall at all times on being so required by the Controller afford to the Controller all such information relating to such business as it may be in his power to afford.

(8) While the Controller remains in office in respect of the business of any person, firm, or company it shall not be lawful for any person other than the Controller, without the consent of the Controller or the Minister of Industries and Commerce, to present any bankruptcy petition in respect of that person or firm or any petition for the winding-up of that company, or to pass any resolution for the winding-up of that company, or to take any steps for the enforcement of the rights of any creditors of that person, firm, or company.

(9) By any warrant under this regulation the Minister may restrict or limit the exercise by the Controller of any of the powers set out in clause (2) of this regulation.

REGULATION 10.—PRISONERS OF WAR.

(1) The Public Trustee may be appointed as the Custodian of the property of any prisoner of war by instrument in writing executed either—

- (a) By that prisoner of war ; or
- (b) By the Attorney-General in any case where he considers it necessary that a custodian shall be appointed.

(2) The execution of any instrument appointing the Public Trustee to be the Custodian of the property of a prisoner of war shall be conclusive evidence that the person in respect of whose property the appointment is made was at the time of execution thereof a prisoner of war for the purposes of these regulations.

(3) Any such appointment, whether made by the prisoner of war himself or by the Attorney-General, shall continue in full force and effect until revoked by the Attorney-General by notice in writing to the Public Trustee, even though the prisoner of war has ceased to be a prisoner of war or to be resident in New Zealand ; and all the provisions of these regulations shall continue to apply to that appointment in the same manner as if that person remained a prisoner of war held in confinement in New Zealand.

(4) The Public Trustee, when so appointed, shall have the following powers in respect of the property of that prisoner of war :—

- (a) To take and retain possession of all property whatever belonging to that prisoner of war :
- (b) To collect, receive, and retain all moneys payable to that prisoner of war :
- (c) To sue in his official name for all debts due and moneys payable to that prisoner of war :

- (d) Out of any moneys received by him as Custodian, to pay and discharge any debts or liabilities of that prisoner of war, and to pay such reasonable sums as he considers necessary for the maintenance of the wife and children (if any) of that prisoner of war :
- (e) Where the moneys received by him are not sufficient to pay all debts and liabilities of that prisoner of war, to sell any personal property of that prisoner of war for that purpose :
- (f) To manage and carry on, or permit to be carried on, the business of that prisoner of war as a going concern, and for that purpose to appoint such agents or servants as he considers necessary, and pay them such remuneration as he thinks fit :
- (g) In the case of a prisoner of war who is no longer in New Zealand, to sell the whole or any part of the real or personal property of that prisoner in New Zealand, and to execute in his name and on his behalf all proper instruments of assurance :
- (h) In the case of an appointment by a prisoner of war himself, to exercise in respect of the property of the prisoner of war any other powers which may be expressly conferred upon the Public Trustee by that prisoner in the instrument of appointment executed by him.

(5) All powers conferred upon the Custodian by these regulations may be exercised by him either personally or through such representative as he may think fit to appoint in that behalf.

(6) All expenses incurred by the Custodian (including such reasonable charges as he thinks fit to make for his services) in the exercise of his powers in respect of the property of any prisoner of war shall be payable out of the moneys received by him as Custodian of that property.

REGULATION 11.—PROBATE AND ADMINISTRATION.

(1) Save with the written consent of the Attorney-General, no person shall, whether on his own behalf or on the behalf of any other person, make or be concerned in making any application to the Supreme Court for probate of the will or of letters of administration of the estate of any person who on his death was an alien enemy, wherever resident, or for the resealing in New Zealand of any probate or letters of administration within the meaning of Part II of the Administration Act, 1908.

(2) Save with the written consent of the Attorney-General, no alien enemy, wherever resident, and no person on behalf of an alien enemy, wherever resident, shall make or be concerned in making any application to the Supreme Court for probate of the will or for letters of administration of the estate of any person deceased, or for the resealing in New Zealand of any probate or letters of administration within the meaning of Part II of the Administration Act, 1908.

(3) No executor, administrator, or trustee of the estate of any deceased person shall, without the written consent of the Attorney-General, distribute or pay any part of the assets or proceeds of that estate to any beneficiary or creditor who is an alien enemy, wherever resident, or to any other person on his behalf.

REGULATION 12.—MANAGEMENT.

(1) Enemy property and the income thereof controlled by the Public Trustee in terms of these regulations, or the proceeds thereof, shall be held by the Public Trustee in trust for all persons having any interest in such property in accordance with their respective interests, save that no moneys shall be paid by the Public Trustee to an enemy except with the consent of the Attorney-General or in pursuance of powers conferred on the Public Trustee by these regulations.

(2) In addition to the powers conferred on him elsewhere in these regulations, the Custodian may in respect of property vested in him :—

- (a) In such manner and on such terms as he thinks fit sell and transfer any enemy property provided that no such sale shall take place without the consent of the Attorney-General.
- (b) Lease or concur in leasing any property for any term not exceeding two years (to take effect in possession within six months of the date of the lease), or from year to year, or for a weekly, monthly, or other like tenancy, or at will :
- (c) Repair, and insure against fire, earthquake, or accident :
- (d) Pay all rates, taxes, insurance premiums, or other outgoings payable in respect of the property in his hands or under any policy of insurance of any kind :
- (e) Surrender, assign, or otherwise dispose of, with or without consideration, any onerous property :
- (f) Surrender or concur in surrendering any lease, and accept a new lease :
- (g) Pay calls on shares in any corporation.

(3) All moneys received by the Public Trustee in terms of these regulations and the proceeds of any property sold by the Public Trustee in terms of these regulations shall be invested by him in accordance with the directions of the Minister of Finance.

REGULATION 13.—CHARGES.

(1) The fees of the Public Trustee in all matters in which he acts under these regulations shall be as follows :—

On the gross value of assets realized—

- (a) On the first £250 or fraction thereof, 12½ per cent., with a minimum of £3 3s.
- (b) On the next £1,750 or fraction thereof, 6½ per cent.
- (c) On all amounts above £2,000, 3½ per cent.

Provided that the Public Trustee shall in his discretion have the power—

- (aa) In the event of his considering, having regard to the work involved, that such fees are in total too large in any particular case, to reduce the amount to be charged to a sum adequate in his view for the work involved :
- (bb) In the event of his considering that such fees are inadequate having regard to the work involved, to fix a fee commensurate in his view with the work performed. If assets are not realized, this provision is to be availed of by the Public Trustee in fixing the charge to be made by him.

(2) For the purposes of calculating the fees to be charged no distinction is to be made between the proceeds of an asset and the income earned by such asset before realization ; the charges are to be calculated on the gross value of the total amount collected, both capital and income.

REGULATION 14.—LIABILITY OF PUBLIC TRUSTEE.

So long as the Public Trustee acts in good faith in the exercise of the powers, duties, and trusts conferred or imposed upon him by or in pursuance of these regulations, he shall be under no civil liability to any person whatever for any error, act, or default.

REGULATION 15.—OFFENCES.

If any person or company fails to supply the notices or information required by these regulations or to make any payments or delivery of property, papers, or documents required by these regulations, or acts in contravention of these regulations in any way, the person or company concerned commits an offence against these regulations.

REGULATION 16.—REVOCATION.

(1) The undermentioned regulations heretofore enuring under the War Regulations Continuance Act, 1920, are hereby revoked :—

Regulations comprised in that Part of the Second Schedule to the War Regulations Continuance Act, 1920, which is Numbered	Subject-matter.
(4)	Estates of deceased persons.
(5)	Enemy property.
(12)	Enemy property.
(23)	Enemy property.

(2) All property vested, all contracts in force, all rights and liabilities accrued, and generally all acts of authorities, matters, acts, and things that originated or had effect under any regulations hereby revoked and are of continuing effect at the time of coming into force of these regulations shall vest, be in force, and enure under and for the purposes of the corresponding provisions of these regulations as fully as if they had originated under these regulations, and shall, where necessary, be deemed to have so originated.

SCHEDULE.

RETURNS OF ENEMY PROPERTY.

SUCH returns shall be made under the following heads :—

(1) Dividends and interest in respect of any shares, stock, debentures, debenture stock, and other obligations of any company incorporated in New Zealand, and any profits or share of profits of any business, and any interest on money lent other than interest on the securities mentioned under the next following head.

(2) Sums payable in New Zealand in respect of interest or securities issued by the Government of New Zealand or any other part of the British dominions, or in respect of securities issued by any municipal or other public or local authority in New Zealand or in any other country, and also all principal sums which become or have become due and repayable in respect of such securities.

(3) Shares, stock, debentures, debenture stock, and other obligations of companies incorporated in New Zealand, and interests held in any undertaking, firm, or partnership carrying on business in New Zealand.

(4) Debts, bank deposits, and bank balances.

(5) Property held in New Zealand for safe custody, such as securities, deeds, personal belongings, jewellery, or cash.

(6) All income not otherwise referred to in this Schedule.

(7) All real and personal property not otherwise referred to in this Schedule.

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