

# NATIONAL EMERGENCY ACT.

## Act No. 1, 1941.

An Act to secure the taking of precautions with a view to the protection of persons and property from injury or damage in the event of enemy action; to amend the Local Government Act, 1919, and certain other Acts; and for purposes connected therewith. George VI.  
No. 1, 1941.  
[Assented to, 20th March, 1941.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**1.** This Act may be cited as the "National Emergency Act, 1941." Short title.

**2.** In this Act unless the context otherwise indicates or requires— Interpre-  
tation.

"Area" means a municipality or shire and includes the City of Sydney.

"Council" means a municipal or shire council and includes the Municipal Council of Sydney.

"Regulations" means regulations made under this Act.

"Warlike attack" means a warlike attack by a country with whom His Majesty is for the time being at war.

**3.** (1) The Minister may from time to time prepare schemes (in this Act referred to as "raid precaution schemes") making provision as to the arrangements to be made in or in respect of any area or part of an area for the protection of persons and property from injury or damage in the event of any warlike attack. Minister  
may  
prepare  
raid  
precaution  
scheme.

(2) Each raid precaution scheme shall be submitted to the Governor for his approval, and if approved by him shall come into force upon the date specified in the scheme.

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(3) Any raid precaution scheme in force under this Act may from time to time be amended or replaced by a subsequent scheme submitted to and approved in like manner as the original scheme.

Provisions  
of scheme.

4. In particular and without prejudice to the generality of the provisions of section three of this Act, a raid precaution scheme may for the purpose of meeting any emergency arising out of a warlike attack or the fear or expectation thereof contain provisions for and in relation to—

- (a) the preparation and distribution of information and advice as to the steps to be taken by persons for the protection of themselves and their property against any warlike attack;
- (b) the provision of shelters for the protection of persons against a warlike attack, and in particular against such attacks from the air;
- (c) the protection against warlike attacks by gas, including its detection, the giving of warnings and decontamination;
- (d) the obscuration and dimming of lights;
- (e) the prohibition or restriction of the use of processes involving flame or glare;
- (f) the taking of measures for camouflage whereby premises of particular classes may be made less readily recognizable from the air;
- (g) the prevention of panic arising out of a warlike attack or the fear of such attack;
- (h) the rescue of persons from positions of danger and the treatment and transport of casualties;
- (i) the maintenance and co-ordination of essential services including transit and transport, water, sewerage, gas and electricity services, fire fighting services, police services, medical and hospital services, ambulance services, and maritime services;
- (j) the demolition of dangerous buildings;
- (k) the preservation and promotion of health and sanitation, and the taking of measures to safeguard persons against epidemics or disease;
- (l) the provision and maintenance of equipment for fire fighting services;

(m)

- (m) the evacuation of all or any persons from any area or part thereof, the reception and billeting in other areas of such persons and the provision generally of amenities for such persons; No. 1, 1941.
- (n) the measures to be taken by persons for the protection of themselves or their property, or for the protection of other persons, including the measures to be taken by employers for the protection of their employees;
- (o) the training of persons in respect to the routine to be followed in the event of a warlike attack;
- (p) the training and equipment of persons for the purpose of giving first aid treatment, dealing with the effects of gas and fighting fires;
- (q) the steps to be taken by employers to provide such training and equipment for their employees;
- (r) the use of premises and buildings, whether privately owned or not, for any purpose connected with protection of life or property;
- (s) the imposition on owners or occupiers of buildings of requirements as to the provision of shelter against any warlike attack for persons using or resorting to the buildings;
- (t) the exercise by the council of an area for the purpose of carrying out any raid precaution scheme of such powers, authorities, duties and functions as may be conferred or imposed on such council by the provisions of such scheme;
- (u) the appointment of persons as chief wardens, wardens and the like and the enrolment of volunteers for the purposes of carrying out a raid precaution scheme, and the training of such persons and volunteers;
- (v) any other matter which the Minister deems necessary or expedient for the purposes of protecting life or property.

5. (1) Any expenditure incurred by or on behalf of the Crown in or in connection with the carrying out of any raid precaution scheme shall be paid out of moneys provided by Parliament. Finance.

(2)

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(2) The Colonial Treasurer may, from moneys provided by Parliament for the purpose or from moneys made available to the State of New South Wales by the Parliament of the Commonwealth of Australia upon terms which are not inconsistent with the application of such moneys for the purpose, make grants or advances to the council of an area for or towards meeting the expenditure incurred by such council in the exercise of any powers, authorities, duties or functions conferred or imposed on the council by a raid precaution scheme or by any regulations made under this Act.

No such grant or advance shall be made by the Colonial Treasurer except upon the recommendation of the Minister and every such grant or advance shall be made upon such terms and subject to such conditions as the Minister may determine.

Regulations.

**6.** (1) The Governor may make regulations prescribing all matters which are necessary or convenient to be prescribed for the purpose of carrying out the provisions of this Act or of any raid precaution scheme, and may in such regulations make provision for or in relation to any matter or thing mentioned in a raid precaution scheme.

(2) In particular, and without prejudice to the generality of subsection one of this section such regulations may, for the purpose of carrying out a raid precaution scheme—

- (a) confer and impose on the council of an area such powers, authorities, duties and functions as may be specified in the regulations, and prescribe the circumstances in which and the conditions under which such powers, authorities, duties and functions shall or may be exercised or discharged;
- (b) authorise the council of an area to borrow money by way of ordinary loan to meet the costs incurred by any such council in carrying out such powers, authorities, duties and functions, and provide for the application to such borrowing, either with or without amendment, modification or omission, of all or any of the provisions of the Local Government Act, 1919, as amended

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amended by subsequent Acts, relating to the borrowing by a council by way of ordinary loan; No. 1, 1941.

- (c) make provision for or in relation to the appointment by the Governor, or the council of an area or such other person as may be specified in the regulations of such persons as may be deemed necessary for carrying any raid precaution scheme into effect;
  - (d) authorise any person so appointed to exercise and discharge such powers, authorities, duties and functions as may be specified in the regulations;
  - (e) require persons to take such steps and to carry out such work, including structural work on buildings, as may be specified in the regulations or as may be directed by a person authorised in that behalf by the regulations;
  - (f) confer power upon any person authorised in that behalf by the regulations to enter any premises either alone or with such assistance as he may deem necessary for the purpose of taking any steps for carrying out any work required to be done by or under the regulations or a raid precaution scheme;
  - (g) empower any person authorised in that behalf by the regulations to give such directions and in such manner as may be necessary for carrying a raid precaution scheme into effect;
  - (h) authorise the council of an area to make payment for or towards the carrying out of a raid precaution scheme, and make provision as to the fund from which such payment shall be made;
  - (i) make such provision in relation to any other matter as the Governor may deem expedient.
- (3) A regulation made under this Act—
- (a) may be made so as to apply to or have operation throughout the whole or any part of New South Wales;

(b)

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(b) may, subject to this Act, be made so as to operate for any period or periods or for any time or times or for any occasion or occasions specified therein;

(c) may be of general operation or of specially limited operation according to time, place, circumstances, conditions or restrictions.

**Procedure.**

(4) The regulations—

(a) shall be published in the Gazette;

(b) shall take effect from the date of publication or from a later date to be specified in the regulations;

(c) shall be laid before both Houses of Parliament as soon as may be after the publication thereof;

(d) may be revoked either in whole or in part by a resolution passed by both Houses of Parliament.

(5) A copy of the regulations shall be posted to each Member of the Legislative Assembly and to each Member of the Legislative Council as soon as may be after the publication thereof.

**Summoning of Parliament on petition of members objecting to any regulation under this Act.**

(6) (a) If during any period for which Parliament stands prorogued a petition signed by not less than thirty Members of the Legislative Assembly or by not less than twenty Members of the Legislative Council objecting to any regulation under this Act and requesting that Parliament should be summoned is addressed to the Speaker of the Legislative Assembly or the President of the Legislative Council, such petition shall be transmitted to the Governor by the Speaker or President as the case may be and Parliament shall be summoned to meet as soon as practicable thereafter.

(b) If during any period for which Parliament stands adjourned a petition signed by not less than thirty Members of the Legislative Assembly or by not less than twenty Members of the Legislative Council objecting to any regulation under this Act and requesting that Parliament should be summoned is addressed to the Speaker of the Legislative Assembly or the President of the Legislative Council, Parliament shall be summoned to meet as soon as practicable thereafter by the President of the Legislative Council and the Speaker of the Legislative Assembly.

(c)

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(c) During the absence of the Präsident of No. 1, 1941. the Legislative Council or of the Speaker of the Legislative Assembly by reason of illness or any other cause the duties imposed by this section upon such President or Speaker shall be discharged by the Chairman of Committees of the Legislative Council or the Chairman of Committees of the Legislative Assembly as the case may be.

(d) The business at any meeting of Parliament held in pursuance of a petition under this subsection shall be confined to the consideration of the regulation to which objection is taken in such petition.

(7) The expiry, repeal or revocation of any regulations shall not be deemed to have affected the previous operation thereof or the validity of any action taken thereunder or any penalty or punishment incurred in respect of any contravention thereof or failure to comply therewith or any proceeding or remedy in respect of any such penalty or punishment. Savings.

(8) The regulations shall have effect, notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

(9) No regulation made under this Act shall be deemed to be invalid on the ground that it delegates to or confers on the Governor, the Minister, the council of an area or any person or body any discretionary authority.

7. (1) Where any matter or thing is by or under the regulations directed or forbidden to be done, or where any person is authorised by the regulations to direct any matter or thing to be done, or to forbid any matter or thing to be done, and such matter or thing if so directed to be done remains undone, or if so forbidden to be done is done, then in every such case, every person offending against such direction or prohibition shall be guilty of an offence against this Act. Offence  
under this  
Act.

(2) A person authorised in that behalf by the regulations may prior or subsequently to or in lieu of prosecuting for such offence do any such matter or thing and recover the costs and expenses thereof from the offender in any court of competent jurisdiction.

(3)

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(3) Any costs and expenses so recovered shall be dealt with in accordance with the regulations.

Regulations  
not to impose  
industrial  
conscription  
or affect  
industrial  
awards or  
agreements.

8. (1) Nothing in this Act shall be construed to authorise the making of any regulation imposing any form of industrial conscription.

(2) Notwithstanding anything contained in this Act the operation of any industrial award or agreement shall not be revoked, impaired or affected by any regulation made under this Act.

Validation  
of acts  
done in  
anticipation  
of emergency  
regulations.

9. Where any acts have been done before the commencement of any of the regulations, and by virtue of those regulations the acts would have been valid and lawful if the regulations had been in force when they were done, the acts shall be deemed to have been validly done under the authority of the regulations.

Protection  
of persons  
acting under  
authority of  
this Act or  
of  
emergency  
regulations.

10. Except as otherwise expressly provided in the regulations, no proceeding, whether at law or in equity, shall lie or be made or allowed by or in favour of any person against the Crown or any Minister of the Crown or the council of an area or any person acting in the execution or intended execution of this Act, or of the regulations for or in respect of any damage, loss or injury sustained or alleged to have been sustained by reason of anything done or purporting to be done under the authority of this Act or of the regulations.

Penalty.

11. (1) Every person who commits or attempts to commit or does any act with intent to commit or counsels, procures, aids, abets or incites any other person to commit or conspires with any other person (whether in New South Wales or elsewhere) to commit, any offence against this Act, shall be liable on summary conviction to imprisonment for a term not exceeding twelve months or to a penalty not exceeding two hundred pounds or to both such imprisonment and such penalty.

(2) Nothing in this Act or in the regulations shall be so construed or shall so operate as to take away or restrict the liability of any person for any offence punishable independently of this Act, but so that no person shall be punished twice for the same offence.

(3) Every corporation shall be liable for any offence against this Act as if such corporation were a private person and shall be subject to the same penalties

as



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as if it were a private person; and if any chairman, member of the governing body, director, manager, secretary or officer of such corporation knowingly authorises or permits the commission of any such offence he shall be deemed to have committed such offence and shall be punishable by imprisonment or penalty or both accordingly.

**12.** This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State, to the intent that where any provision of this Act or of the regulations or the application thereof to any person or circumstance is held invalid, the remainder of this Act or of such regulations, and the application of such provision to other persons or circumstances shall not be affected. Construction.

**13.** This Act shall continue in operation for the duration of the present war between His Majesty and Germany and her allies and for a period of six months thereafter and no longer. Duration  
of Act.

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