

STATUTORY RULES.

1942. No. 405

REGULATION UNDER THE NATIONAL SECURITY ACT 1939-1940.*

I THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulation under the *National Security Act 1939-1940*.

Dated this *Twenty-second*
day of *September*, 1942.

(SGD.) GOWRIE.
Governor-General.

By His Excellency's Command,

(Sgd.) H. V. Evatt
for and on behalf of the Minister of
State for Defence.

AMENDMENT OF THE NATIONAL SECURITY (GENERAL) REGULATIONS.†

After regulation 26 of the National Security (General) Regulations the following regulation ~~is~~ inserted:—

“26A.—(1.) Notwithstanding anything contained in the last preceding regulation, it shall not be necessary for any person to apply for leave to submit objections against any order and, in addition to the provisions of that regulation (other than the provisions relating to applications for leave), the following provisions shall apply in respect of the submission and determination of objections against any such order:—

Additional provision in relation to restriction orders and detention orders.

- (a) In addition to the persons mentioned in sub-regulations (2.) and (2A.) of the last preceding regulation, the Minister may appoint as Chairman or acting Chairman of an Advisory Committee a person who is a barrister-at-law of not less than ten years' standing and is one of His Majesty's Counsel learned in the law;

* Notified in the *Commonwealth Gazette* on

1942.

† Statutory Rules 1939, No. 87, as amended to this date. For previous amendments see note † to Statutory Rules 1942, No. 308, and see also Statutory Rules 1942, Nos. 309, 357, 373, and 374.

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- (b) A person detained under an order may, within the time and in the manner prescribed by or under this regulation, submit objections against the order;
- (c) Objections against any such order shall be submitted—
 - (i) where the order was made before the date of the commencement of this regulation—within fourteen days after that date; and
 - (ii) where the order was made on or after that date—within fourteen days after the date upon which the objector received notice of the order:

Provided that, unless the Minister otherwise directs, an objection shall not be considered by an Advisory Committee in the case of an order made prior to the commencement of this regulation in respect of which an application for leave under sub-regulation (3A.) of the last preceding regulation was not made and the time for making such an application expired before the commencement of this regulation:

Provided further that an Advisory Committee may consider objections which are not submitted within the prescribed time if it is satisfied that it was not practicable for the applicant to submit the objections within that time and that he submitted them as soon as practicable thereafter;

- (d) Rules made under the last preceding regulation shall contain provisions for enabling a person submitting objections to submit objections either in person or by counsel, solicitor or agent;
- (e) An Advisory Committee may, on application by the objector or on its own motion, at any time prior to the making of the report and recommendation on the objections, direct that any objections which have been submitted to it shall be heard by another Advisory Committee and thereupon that other Committee shall deal with the objections as if they had been originally submitted to it;
- (f) All Advisory Committees and the members and officers thereof shall severally act in aid of and be auxiliary to each other;
- (g) In any case in which the Minister, or the person submitting objections, desires to call before an Advisory Committee a witness or witnesses from a part of Australia other than that in which the Committee is sitting and it is inexpedient or impracticable for any such witness to be brought before that Committee, the Committee may either accept the evidence of any such witness on affidavit, or it may request an Advisory Committee or a Police, Stipendiary or Special Magistrate, sitting in the part of Australia in which any such witness is, to hear and record the evidence of any such witness, and that Committee or Magistrate shall then hear the evidence of the witness

and shall cause that evidence to be accurately recorded in writing and forward it to the first-mentioned Committee, together with a statement of its or his opinion as to the credence to be attached to the evidence of the witness;

- (h) The record of the evidence of any witness heard and recorded in accordance with the provisions of the last preceding paragraph shall be received by the Advisory Committee which requested the evidence to be taken and shall be taken into consideration in determining its recommendation;
- (i) A person in respect of whom an order is made shall be afforded the earliest practicable opportunity of making to the Minister representations in writing with respect thereto and shall be supplied with a copy of this regulation and of the last preceding regulation;
- (j) The Chairman of an Advisory Committee shall, at the first meeting of the Committee at which the objections of a person in respect of whom an order is made are considered, so far as is compatible with securing the public safety or the defence of the Commonwealth, ensure that the objector is informed of the grounds on which the order was made against him; and
- (k) The Minister may at any time refer to an Advisory Committee for consideration or re-consideration the case of any person against whom an order has been made under regulation 25 or 26 of these Regulations and the Committee shall, upon such consideration or re-consideration, make recommendations to the Minister as if the reference were an objection under either of those regulations.

"(2.) In this regulation, 'the Minister' means the Minister of State for Defence or the Attorney-General."

Fees for
Legal
services.

"260. Where, in connexion with the submission of objections by any person in pursuance of either of the last two preceding regulations, the services of a barrister or solicitor or both are employed by that person, then:--

- (a) if the services of a barrister only or of a solicitor only are employed - the barrister or solicitor, as the case may be, shall not be entitled to receive; or
- (b) if the services of both a barrister and a solicitor are employed - the barrister and solicitor shall not be entitled to receive in the aggregate,

in respect of all services performed in connexion with the submission after the commencement of this regulation, fees exceeding in all a sum fixed by the Advisory Committee which considered the objections or in any event exceeding the sum of Fifty pounds, and, where the services of two or more persons (whether barristers or solicitors) are so employed, the portion of the total sum payable to each may be determined by the Advisory Committee."