

PUBLIC SECURITY

AN ORDINANCE TO PROVIDE FOR THE ENACTMENT OF EMERGENCY REGULATIONS *OR THE ADOPTION OF OTHER MEASURES IN THE INTERESTS OF THE PUBLIC SECURITY AND THE PRESERVATION OF PUBLIC ORDER AND FOR THE MAINTENANCE OF SUPPLIES AND SERVICES ESSENTIAL TO THE LIFE OF THE COMMUNITY.

Ordinance Nos,
25 of 1947

Law Nos,
6 of 1978

Act Nos,
22 of 1949
34 of 1953
8 of 1959
28 of 1988

[16th June , 1947]

PART I GENERAL

Short title. **1.** This Ordinance may be cited as the Public Security Ordinance.

Power of President to bring Part II into operation. **2.**
[3, 34 of 1953] (1) Where, in view of the existence or imminence of a state of public emergency, the President is of opinion that it is expedient so to do in the interests of public security and the preservation of public order or for the maintenance of supplies and services essential to the life of the community, the President may, by Proclamation published in the Gazette, declare that the provisions of Part II of this Ordinance shall, forthwith or on such date as may be specified in the Proclamation, come into operation throughout Sri Lanka or in such part or parts of Sri Lanka as may be so specified.
[[3, 8 of 1959]

[2, Law 6 of 1978] (2) Where the provisions of Part II of this Ordinance have come into operation on any date by virtue of a Proclamation under subsection (1), those provisions shall, subject to the succeeding provisions of this section, be in operation for a period of one month from that date, but without prejudice to the earlier revocation of the Proclamation or the making of a further Proclamation at or before the end of that period. * Preamble is amended by section 2 of Act No. 8 of 1959.

[2, 28 of 1988] (2A)

(a) Where a further Proclamation is made under subsection (2) of section 2, at or before the expiration of a Proclamation made under that section, every-

(i) regulation made under section 5; and

(ii) every order and rule made under any such regulation, and in force, or deemed to be in force, on the day immediately preceding the coming into operation of such further Proclamation shall be deemed to be in force, from and after the date of the coming into operation of such further Proclamation:

Provided that the President may at any time prior to the coming into operation of such further Proclamation by Order declare that on the coming into operation of such further Proclamation, any such regulation, Order or rule as is specified in such Order, shall not be deemed to be in force, or shall be deemed to be in force, subject to such amendments, or modifications as are set out in such Order.

(b) Nothing in this section shall prejudice the power of the President to make regulations under section 5 during the continuance of a Proclamation under section 2, or to amend, vary or revoke any such regulation, Order or rule in force, or deemed to be in

force.

[2, 22 of 1949] (3) Where a Proclamation is made under the preceding provisions of this section, the occasion thereof shall forthwith be communicated to Parliament, and, if Parliament is then separated by any such adjournment or prorogation as will not expire within ten days, a Proclamation shall be issued for the meeting of Parliament within ten days, and Parliament shall accordingly meet and sit upon the day appointed by that Proclamation, and shall continue to sit and act in like manner as if it had stood adjourned or prorogued to the same day.

[3, 34 of 1953] The fact that the occasion of making of a Proclamation under subsection (1) cannot be communicated to Parliament by reason that Parliament does not meet when summoned to meet as provided by this subsection shall not in any way affect the validity or operation of that Proclamation or of the provisions of Part II of this Ordinance or anything done under that Part: Provided that in such event, Parliament shall again be summoned to meet as early as possible thereafter.

[2, Law 6 of 1978] (4) Where the provisions of Part II of this Ordinance have come into operation on any date by virtue of a Proclamation made under subsection (1), such Proclamation shall expire after a period of fourteen days from the date on which the provisions of that Part shall have come into operation, unless such Proclamation is approved by a resolution of Parliament:

Provided that if-

(a) Parliament stands dissolved at the time the provisions of that Part come into operation, or

(b) Parliament is at such time separated by any such adjournment or prorogation as is referred to in subsection (3), or

(c) Parliament does not meet when summoned to meet as provided by subsection (3) of this section or Article 155 of the Constitution,

then such Proclamation shall expire at the end of a period of ten days from the date on which Parliament shall next meet and sit, unless approved by a resolution of Parliament at such meeting.

[2, Law 6 of 1978] (5) Upon the revocation of a Proclamation under subsection (1) at any time within a period of fourteen days from the date on which the provisions of Part II of this Ordinance shall have come into operation or upon the expiry of such a Proclamation in accordance with the provisions of subsection (4), any further Proclamation made under subsection (1) before the end of a period of fourteen days from the date of such revocation or expiry, as the case may be, shall not come into operation until the making thereof shall have been approved by a resolution of Parliament at its next meeting.

[2, Law 6 of 1978] *(6) Notwithstanding anything to the contrary in any other provision of this Ordinance, where the provisions of Part II of (* Appears to be impliedly repealed due to the repeal of paragraphs (8) and (9) of Article 155 of the Constitution.) this Ordinance shall have been in operation for a period of ninety consecutive days, or a period of ninety consecutive days, or a period of ninety days in the aggregate during six consecutive calendar months, no Proclamation made under subsection (1) bringing the provisions of Part II of this Ordinance into operation shall, if made at any time during the succeeding six calendar months, be in operation for more than ten days from the date on which the provisions of that Part are brought into operation by such Proclamation, unless such Proclamation is approved by a resolution of Parliament passed by at least two-thirds of the whole number of members of Parliament (including those not present voting in favour of such resolution:

Provided that if:

(a) Parliament stands dissolved at the date of the making of such Proclamation, or

(b) Parliament is at such date separated by any such adjournment or prorogation as is referred to in subsection (3), or

(c) Parliament does not meet when summoned to meet as provided by subsection (3) of this section or Article 155 of the Constitution,

then such Proclamation shall expire at the end of ten days after the date on which Parliament shall next meet and sit unless approved by Parliament by a resolution passed by at least two-thirds of the whole number of members of Parliament (including those not present) voting in favour of such resolution.

[2, Law 6 of 1978] (7) Notice of the approval of a Proclamation by Parliament shall, as soon as may be convenient, be published in the Gazette.

Presumption as to existence or imminence public emergency.

[4, 34 of 1953]

3. Where the provisions of Part II of this Ordinance are or have been in operation during any period by virtue of a Proclamation under section 2, the fact of the existence or imminence, during that period, of a state of public emergency shall not be called in question in any court.

Saving provisions applicable on cessation of operation of Part II.

[3, 22 of 1949]

4. The expiry or revocation of any Proclamation under section 2 shall not affect or be deemed to have affected-

(a) the past operation of anything duly done or suffered to be done under Part II of this Ordinance while that Part was in operation;

(b) any offence committed, or any right, liberty or penalty acquired or incurred while that Part was in operation;

(c) the institution, maintenance or enforcement of any action, proceeding or remedy under that Part in respect of any such offence, right, liberty or penalty.

PART II EMERGENCY REGULATIONS

Power of President to make emergency regulations.

[3, Law 6 of 1978]

5.

(1) The President may make such regulations (hereinafter referred to as "emergency regulations" as appear to him to be necessary or expedient in the interests of public security and the preservation of public order and the suppression of mutiny, riot or civil commotion, or for the maintenance of supplies and services essential to the life of the community.

(2) Without prejudice to the generality of the powers conferred by the preceding subsection, emergency regulations may, so far as appears to the President to be necessary or expedient for any of the purpose mentioned in that subsection-

[5, 34 of 1953]

(a) authorize and provide for the detention of persons;

(b) authorize-

(i) the taking of possession or control, on behalf of the State, of any property or undertaking;

(ii) the acquisition on behalf of the State of any property other than land;

(c) authorize the entering and search of any premises;

(d) provide for amending any law, for suspending the operation of any law and for applying any law with or without modification;

(e) provide for charging, in respect of the grant or issue of any license, permit, certificate or other document for the purposes of the regulations, such fee as may be prescribed by or under the regulations;

(f) provide for payment of compensation and remuneration to persons affected by the regulations;

[4, 22 of 1949]

(g) make provisions for the apprehension and punishment of offenders and for their trial by such courts, not being courts martial, and in accordance with such procedure, as may be provided for by the regulations, and for appeals from the orders or decisions of such courts and the hearing and disposal of such appeals.

[4, 22 of 1949] (3) Any emergency regulation may be added to, or altered or revoked by resolution of Parliament or by regulation made under the preceding provisions of this section.

Delegation of powers.

6. Emergency regulations may provide for empowering such authorities or persons as may be specified in the regulations to make orders and rules for any of the purposes for which such regulations are authorized by this Ordinance to be made, and may contain such incidental and supplementary provisions as appear to the President to be necessary or expedient for the purposes of the regulations.

Emergency regulations to prevail over other law.

7. An emergency regulation or any order or rule made in pursuance of such a regulation shall have effect notwithstanding anything inconsistent therewith contained in any law; and any provision of a law which may be inconsistent with any such regulation or any such order or rule shall, whether that provision shall or shall not have been amended, modified or suspended in its operation under section 5 of this Ordinance, to the extent of such inconsistency have no effect so long as such regulation, order or rule shall remain in force.

Regulations,

orders, &c, not to be called in question in any court.

8. No emergency regulation, and no order, rule or direction made or given thereunder shall be called in question in any court.

Protection in respect of acts done in good faith under any emergency regulation or any order or direction thereunder.

9. No prosecution or other criminal proceeding against any person for any act purporting to be done under any provision of any emergency regulation or of any order or direction made or given thereunder shall be instituted in any court except by, or with the written sanction of, the Attorney-General; and no suit, prosecution or other proceeding, civil or criminal, shall lie against any person for any act in good faith done in pursuance or supposed pursuance of any such provision.

[4, 8 of 1959]

Reception of documents in evidence, &c.

10. Every document purporting to be an instrument made or issued by the President or other authority or person in pursuance of this Ordinance or of any emergency regulation, and to be signed by or on behalf of the President or such other authority or person, shall be received in evidence, and shall, until the contrary is proved, be deemed to be an instrument made or issued by the President or that authority or person.

Regulations to come into force upon being made by the President.

11. Notwithstanding anything in the Interpretation Ordinance or in any other law, every emergency regulation shall come into force forthwith upon its being made by the President, and shall be deemed to be as valid and effective as though it were herein enacted.

PART III

SPECIAL POWER OF THE PRESIDENT.[5, 8 of 1959]

Calling out the armed forces.

12.

[5, 8 of 1959]

(1) Where circumstance endangering the public security in any area have arisen or are imminent and the President is of the opinion that the police are inadequate to deal with such situation in that area, he may, by Order published in the Gazette, call out all or any of the members of all or any of the armed forces for the maintenance of public order in that area.

(2) The members of any of the armed forces who are called out by Order made under subsection (1) for the purpose of maintaining public order in any area shall for such purpose have the powers, including the powers of search and arrest, conferred on police officers by any provision of this Part or of any other written law, other than the powers specified in Chapter XI of the Code of Criminal Procedure Act, No. 15 of 1979: Provided that the power conferred on police officers by subsection (1) of section 14 shall not be exercised by any member of the armed forces called out as aforesaid who is of a rank below that of Sergeant of the Sri Lanka Army or Sri Lanka Air Force or of Petty Officer of the Sri Lanka Navy.

(3) In any area in respect of which an Order is made under subsection (1), section 95 of the Code of Criminal Procedure Act, No. 15 of 1979, shall have effect as if the expression "police officer" occurring therein includes any member of the armed forces who is called out by such Order and who is of a rank not below that of Sergeant of Sri Lanka Army or Sri Lanka Air Force or of Petty Officer of the Sri Lanka Navy.

(4) Where any member of the Sri Lanka Army who is not an officer or a soldier of the Regular Force is called out by Order made under subsection (1), he shall, within the meaning and for the purposes of the Army Act, be deemed to be on active service and to be a person subject to military law.

(5) Where any member of the Sri Lanka Navy who is not an officer or a seaman of the Regular Naval Force is called out by Order made under subsection (1), he shall, within the meaning and for the purposes of the Navy Act, be deemed to be on active service and to be a person subject to naval law.

(6) Where any member of the Sri Lanka Air Force who is not an officer or airman of the Regular Air Force is called out by Order made under subsection (1), he shall, within the meaning and for the purposes of the Air Force Act, be deemed to be on active service and to be a person subject to that Act.

(7) Any member of the armed forces who is called out by Order made under subsection (1) shall remain so called out until the expiry or rescission of that Order.

Seizure and removal of guns and explosives.

13. Any police officer, or any member of the armed forces who is called out by Order made under section 12, may, if a written authorization to do so is issued to him by the President or any person appointed by the President to act on behalf of the President under this section, seize and remove any gun or explosive in the possession of any person in the area to which

[5, 8 of 1959]

such Order applies and keep it in such custody as may be determined by the person issuing such authorization, and may, for the purpose of seizing and removing any gun or explosive, enter, with such assistants as may be necessary, any premises or place in such area and search such premises or place and any person present therein.

Seizure and removal of offensive weapons and offensive substances from persons in a public place.

[5, 8 of 1959]

14.

(1) Any police officer may remove any offensive weapon or any offensive substance which any person, without lawful authority or reasonable excuse, has in his possession or under his control in any public place in any area to which an Order made under section 12 applies.

(2) In subsection (1)-

"offensive substance" means any inflammable, corrosive or volatile substance;

"offensive weapon" means any knife or gun, or any bomb or grenade or any other device or contrivance made or intended for a use or purpose similar to that of a bomb or grenade, or any other article capable of being used for causing injury to the person; and

"public place" includes any highway and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise.

Disposal of guns, explosives and other articles or substances seized and removed under this Part.

[5, 8 of 1959]

15. Any article or substance which is seized and removed under section 13 or section 14 from any person in any area to which an Order made under section 12 applies shall, unless legal proceedings are taken against that person for any offence to which he is liable in respect of that article or substance, be returned to him forthwith after the expiry or rescission of such Order.

Curfew.

[5, 8 of 1959]

16.

(1) Where the President considers it necessary to do so for the maintenance of public order in any area, he may, by Order published in the Gazette, direct that, subject to such exemption as may be made by that Order or by any subsequent Order made under this section, no person in such area shall, between such hours as may be specified in the Order, be on any public road, railway, public park, public recreation ground or other public ground or the seashore except under the authority of a written permit granted by such person as may be specified in the Order.

(2) In subsection (1), "public road" includes any roadway over a public bridge, any pavement, drain embankment or ditch belonging or appertaining to a public road.

(3) If any person contravenes an Order made under this section, he shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to rigorous imprisonment for a term not exceeding one month or to a fine not exceeding one hundred rupees or to both such imprisonment and fine.

(4) Where a person accused of the offence of contravening an Order made under this section is ordered by the court to be released on bail or on his executing a bond without sureties for his appearance in court, the amount of the bail bond or of the bond without sureties shall not exceed five hundred rupees.

Essential services. 17.

[5, 8 of 1959]

(1) Where the President considers it necessary in the public interest to do so for the maintenance of any service which, in his opinion, is essential to the life of the community, he may, by Order published in the Gazette, declare that service to be an essential service.

(2) Where any service is declared by Order made under subsection (1) to be an essential service,-

(a) any person who, on the day immediately preceding the date of publication of that Order in the Gazette, was engaged or employed, or who after that day, is engaged or employed, on any work in connexion with that service shall be guilty of an offence if he fails or refuses to attend at his place of work or employment or at such other place as may from time to time be designated by his employer or a person acting under the authority of his employer, or if he fails or refuses to perform such work as he may be directed by his employer or by a person acting under the authority of his employer to perform; or

(b) any person who, by violence to person or property, or by spoken or written threat, intimidation or insult of any kind to

whomsoever addressed or by molestation of any description, or in any other manner whatsoever-

(i) impedes obstructs, delays or restricts the carrying on of that service, or

(ii) compels, incites, induces or encourages any other person employed in or in connexion with the carrying on of that service to surrender or depart from his employment (whether or not such other person does so surrender or depart in consequence), or

(iii) prevents any other person from offering or accepting employment in or in connexion with the carrying on of that service; or

(c) any person who, by any physical act or by any speech or writing, incites, induces or encourages any other person to commit any act specified in paragraph (b) of this subsection (whether or not such other person commits in consequence any act so specified), shall be guilty of an offence: Provided that any cessation of work in consequence of a strike commenced by a registered trade union solely in pursuance of an industrial dispute shall not be deemed to be an offence under the preceding provisions of this subsection. In this proviso, the expression "industrial dispute" shall have the meaning assigned to it by section 48 of the Industrial Disputes Act.

(3) Where a person is prosecuted for an offence under paragraph (a) of subsection (2), it shall be a defence for him to prove that he was prevented from attending at his place of work or employment owing to illness or owing to the fact that transport facilities were not available for him to travel to such place.

(4) Every person who commits an offence under this section shall, on conviction after summary trial before a Magistrate, be liable to rigorous imprisonment for a term not less than three months and not exceeding five years or a to a fine not less than five hundred rupees and not exceeding five thousand rupees or to both such imprisonment and fine.

Offenders under section 16 or section 17 may be arrested without warrant.

[5, 8 of 1959]

18. Any police officer may arrest without warrant any person who is committing or has committed or whom he has reasonable ground for suspecting to be committing or to have committed any offence under section 16 or section 17.

Section 15 (2) of the Code of Criminal Procedure Act, No. 15 of 1979, not to apply to offenders under section 16 or section 17.

[5, 8 of 1959]

19. Section 15 (2) of the Code of Criminal Procedure Act, No. 15 of 1979, shall not apply to any person convicted of an offence under section 16 or section 17.

Persons arrested by members of the armed forces to be delivered to the custody of the police.

[5, 8 of 1959]

20. Any person arrested by any member of the armed forces who is called out by Order made under section 12 shall without unnecessary delay be delivered to the custody of a police officer to be dealt with according to law.

Provisions in regard to Order made under this Part.

[5, 8 of 1959]

21.

(1) An Order made under section 12, section 16 or section 17 shall be in operation for a period of one month from the date of its publication in the Gazette, but without prejudice to the earlier rescission of that Order or to the making of a further Order at or before the end of that period.

(2) The provisions of subsection (3) of section 2 shall, mutatis mutandis, apply to an order made under section 12, section 16 or section 17 in like manner as they apply to a Proclamation made under subsection (1) of section 2.

(3) An Order made under section 12, section 16 or section 17, or the circumstances necessitating the making of such Order, shall not be called in

question in any court.

(4) An Order made under section 12, section 16 or section 17 may be amended or rescinded by resolution of Parliament or by another Order made under that section.

The Provisions of this Part and of any Order made thereunder to prevail over all other law.

[5, 8 of 1959]

Protection in respect of acts done in good faith under any provision of this Part or of any Order thereunder.

[5, 8 of 1959]

22. The provisions of this Part and of any Order made under section 12, section 16 or section 17 shall have effect notwithstanding anything inconsistent therewith or contrary thereto contained in any other law.

23. No prosecution or other criminal proceeding against any person for any act purporting to be done under any provision of this Part or of any Order made thereunder shall be instituted in any court except by, or with the written sanction of, the Attorney- General; and no suit, prosecution, or other proceeding civil or criminal, shall lie against any person for any act in good faith done in pursuance or supposed pursuance of any such provision.

Interpretation of expressions used in this Part.

24. In this Part-

"armed forces" means the Sri Lanka Army, the Sri Lanka Navy and the Sri Lanka Air Force;

"explosive" shall have the same meaning as in the Explosives Act; and "gun" shall have the same meaning as in the Firearms Ordinance.