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EMERGENCY POWERS LAW

(2006 Revision)

Cap 17 of the 1963 Revised Edition of the Laws consolidated with the Emergency (Public Security) Law (Cap. 48 of the said Revised Edition) and with Law 16 of 2005.

Revised under the authority of the Law Revision Law (1999 Revision).

Originally enacted-

Cap. 17-1st January, 1964

Cap. 48-1st January, 1964

Law 16 of 2005-14th September, 2005.

Consolidated and revised this 30th day of May, 2006.

Note (not forming part of the Law): This revision replaces the 1997 Revision which should now be discarded.

EMERGENCY POWERS LAW

(2006 Revision)

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EMERGENCY POWERS LAW

(2006 Revision)

PART I-Introductory

1. This Law may be cited as the Emergency Powers Law (2006 Revision). Short title
 2. In this Law- Definition
- “Law” includes any law, regulation, rule, order, proclamation or bye-law in force in the Islands.

PART II-Public Emergency

3. (1) Subject to subsection (3), if at any time - Issue of proclamation of emergency
 - (a) there has been an earthquake, or there has been or there is an immediate threat of a hurricane, flood, fire, outbreak of pestilence, outbreak of infectious disease or other calamity, whether similar to the aforementioned or not;
 - (b) there is in effect in relation to the Islands a tropical storm watch or warning, or hurricane watch or warning; or
 - (c) action has been taken or is immediately threatened by any person or body of persons of such a nature and on so extensive a scale as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life,

the Governor may, after consultation with the Leader of Government Business, by Proclamation, (hereinafter referred to as a “proclamation of emergency”) declare that a state of emergency exists.

(2) Subject to subsection (3), the Governor may, after consultation with the Leader of Government Business, by Proclamation, revoke a proclamation of emergency, and from the date when such revocation takes effect the proclamation of emergency shall cease to be in force, except as respects things previously done or omitted to be done.

(3) Where, in the judgement of the Governor, the circumstances make it impracticable to consult with the Leader of Government Business as required by subsections (1) and (2), the Governor may, without such consultation, declare a

state of emergency or revoke the proclamation of emergency, but shall, as soon as reasonably practicable thereafter, inform the Leader of Government Business .

(4) No proclamation of emergency shall be in force for more than one month, without prejudice to the issue of another proclamation at or before the end of that period.

(5) Where a proclamation of emergency has been made, the occasion thereof shall forthwith be communicated to the Legislative Assembly, and if the Legislative Assembly is then separated by such adjournment or prorogation as will not expire within ten days, a proclamation shall be issued by the Governor for the meeting of the Legislative Assembly within ten days, and the Legislative Assembly shall accordingly meet and sit upon the day appointed by the proclamation, and shall continue to sit and act in like manner as if it had stood adjourned or prorogued to the same day.

Compulsory evacuation

4. (1) The Governor may, after consultation with the body commonly referred to as the “National Hurricane Committee” and any other relevant agency, by Order declare an area to be an unsafe area and may, in that Order or a subsequent Order, direct that the unsafe area be evacuated by a specified time and in accordance with such procedures, if any, as he may specify.

(2) Whoever, without proper authorisation, enters or is found in an unsafe area, or, being in an unsafe area, refuses to leave that area, is guilty of an offence and liable on summary conviction to a fine of two thousand dollars (but which shall not be less than two hundred dollars) and to imprisonment for two years.

(3) In subsection (2)-

“proper authorisation” means authorisation issued by or on behalf of the Governor or the Commissioner of Police.

(4) A constable may, in an unsafe area, arrest any person that he reasonably suspects to be committing an offence under subsection (2).

(5) Notwithstanding the description of an unsafe area specified in an Order made under subsection (1), a police checkpoint established in respect of an unsafe area shall be deemed to be located on the perimeter of that unsafe area and whoever crosses that check point without proper authorisation to do so is guilty of an offence and liable on summary conviction to a fine of two thousand dollars and imprisonment for six months.

5. (1) Where a proclamation of emergency has been made and so long as the proclamation is in force, the Governor may make regulations for securing the essentials of life to the community, and those regulations may confer or impose on any Government department, or any person in Her Majesty's service or acting on Her Majesty's behalf, such powers and duties as the Governor may deem necessary for the preservation of the peace, for securing the public safety, the defence of the Islands, the maintenance of public order, the suppression of mutiny, rebellion or riot, for securing and regulating the supply and distribution of food, water, fuel, light and other necessities, for maintaining the means of transit or locomotion and for any other purposes essential to the public safety and the life of the community, and may make such provisions incidental to the powers aforesaid, as may appear to the Governor to be required, for making the exercise of those powers effective.

(2) Without prejudice to the generality of the powers conferred by subsection (1), regulations made under this Part may-

- (a) make provision for the detention of persons and the deportation and exclusion of persons from the Islands or any part of the Islands;
- (b) authorise on behalf of Her Majesty-
 - (i) the taking of possession or control or the managing or carrying on, as the case may be, of any property or undertakings; and
 - (ii) the acquisition of any property other than land;
- (c) authorise the entering and search of any premises;
- (d) authorise the use of any of Her Majesty's Forces;
- (e) provide for amending any enactment, for suspending the operation of any enactment and for applying any enactment with or without modification;
- (f) provide for charging in respect of the grant or issue of any licence, permit, certificate or other document for the purposes of the regulations, such fee as may be prescribed by or under the regulations;
- (g) provide for payment of compensation to and remuneration of persons affected by the regulations;
- (h) provide for the apprehension and trial by courts of summary jurisdiction of persons guilty of offences against the regulations, so however that the maximum penalty which may be inflicted for any offence against any such regulations shall be imprisonment for six months and a fine of two hundred dollars, together with the forfeiture of any goods or money in respect of which the offence has been committed:

Provided that no such regulations shall alter any existing procedure in criminal cases or confer any right to punish by fine or imprisonment without trial:

Provided also that nothing in this Part shall be construed to authorise the making of any regulations imposing any form of compulsory military service or industrial conscription.

(3) All regulations made under this Part shall be laid as soon as may be after the making thereof before the Legislative Assembly and shall not continue in force after the expiration of seven days from the date when they are so laid before the Legislative Assembly, unless a resolution is passed by the Legislative Assembly providing for the continuance thereof, and in default of such resolution for the continuance of such regulations, the proclamation shall cease to have force and effect.

(4) Regulations made under this Part shall have effect notwithstanding anything inconsistent therewith contained in any enactment, and any provision of any enactment which may be inconsistent with such regulations shall, to the extent of such inconsistency, have no effect so long as such regulations remain in force.

(5) Every document purporting to be an instrument made or issued by the Governor or other authority or person in pursuance of this Part, or of any regulations made under this Part, and to be signed by or on behalf of the Governor or such 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 Governor or that authority or person.

Exercise of power in good faith not actionable

6. No proceedings shall be brought against any person for anything done in good faith in the exercise of any powers conferred by any regulations made under this Part.

Revocation or amendment of regulations

7. (1) Regulations made under this Part shall have effect as if enacted in this Law, but may be added to, altered or revoked by resolution of the Legislative Assembly, or by regulations made in like manner and subject to the like provisions as the original regulations.

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

PART III-War Emergency

8. (1) The Governor, in the event of Her Majesty being engaged in any war, or whenever, at any time, it appears to him that a state of war between Her Majesty and any Foreign State is imminent, may, in the interest of the public security, by Proclamation, declare that a state of war emergency exists.

Power to proclaim state of war emergency

(2) Every emergency so proclaimed shall be deemed to continue until determined by a further proclamation made by the Governor in that behalf.

9. (1) Wherever a state of emergency has been proclaimed under section 8, the Governor may make such regulations (in this Law referred to as “the War Emergency Regulations”), as appear to him to be necessary or expedient for securing the public safety, the defence of the Islands, the maintenance of public order and the suppression of mutiny, rebellion and riot, and for maintaining supplies and services essential to the life of the community.

Power to make War Emergency Regulations

(2) Without prejudice to the generality of the powers conferred by subsection (1), such regulations may, so far as appears to the Governor to be necessary or expedient for any of the purposes mentioned in such subsection-

- (a) make provision for the detention of persons and the deportation and exclusion of persons from the Islands;
- (b) authorise-
 - (i) the taking of possession or control, on behalf of Her Majesty, of any property or undertaking; and
 - (ii) the acquisition on behalf of Her Majesty of any property other than land;
- (c) authorise 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 licence, permit, certificate or other document for the purposes of the regulations, such fee as may be prescribed by or under the regulations; and
- (f) provide for payment of compensation and remuneration to persons affected by the regulations; and
- (g) provide for the apprehension, trial and punishment of persons offending against the regulations:

Provided that nothing in this section shall authorise the making of provision for the trial of persons by Military Courts.

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- Power to make orders, etc., under regulations
10. The War Emergency Regulations may provide for empowering such authorities or persons as may be specified in the regulations to make proclamations, orders and rules for any of the purposes for which such regulations are authorised by this Part to be made, and may contain such incidental and supplementary provisions as appear to the Governor to be necessary or expedient for the purposes of the regulations.
- Regulations, etc., to prevail notwithstanding inconsistency
11. Any regulation made under this Part, or any proclamation, order or rule made in pursuance of any such regulation, shall have effect notwithstanding anything inconsistent therewith contained in any law; and any provision of a law which may be inconsistent with any regulation or any such proclamation, order or rule shall, whether that provision has or has not been amended, modified or suspended in its operation under section 9, to the extent of such inconsistency have no effect so long as such regulation, proclamation, order or rule remains in force.
- Documents to be received in evidence
12. Every document purporting to be an instrument made or issued by the Governor or other authority or person in pursuance of this Part, or of any regulations made under this Part, and to be signed by or on behalf of the Governor 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 Governor or by such authority or person.
- Provisions and regulations to have continuing effect
13. Sections 9, 10, 11 and 12 and any regulations made under this Part shall be, and continue to be, of full force and effect throughout the existence of any state of emergency which, from time to time, may be proclaimed under this Part, but upon the determination of the state of emergency under section 8(2), they shall then cease to have effect except as respects things previously done or omitted to be done.

Publication in consolidated and revised form authorised by the Governor in Cabinet this 30th day of May, 2006.

Carmena Watler
Clerk of Cabinet

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