

ශ්‍රී ලංකා ප්‍රජාතාන්ත්‍රික සමාජවාදී ජනරජයේ ගැසට් පත්‍රය
අති විශේෂ

The Gazette of the Democratic Socialist Republic of Sri Lanka
EXTRAORDINARY

අංක 1378/23 – 2005 පෙබරවාරි 03 වැනි බ්‍රහස්පතින්දා – 2005.02.03
No. 1378/23 – THURSDAY, 03 FEBRUARY 2005

(Published by Authority)

PART I : SECTION (I) — GENERAL

Government Notifications

L.D. CF 1/64.

THE PUBLIC SECURITY ORDINANCE (CHAPTER 40)

REGULATIONS made by the President under Section 05 of the Public Security Ordinance (Chapter 40).


CHANDRIKA BANDARANAIKE KUMARATUNGA,
President.

Colombo,
03rd February, 2005.

Regulations

1. These regulations may be cited as the Emergency (Miscellaneous Provisions and Powers) Short title.
Regulation No. 01 of 2005.

PART I

GENERAL

2. (1) In any emergency regulation, unless any other definition is expressly provided therein or Interpretation.
unless it is otherwise expressly provided therein or the context otherwise requires :-

“Attorney- General” in relation to any emergency regulations, includes the Solicitor-General,
Additional Solicitor-General and Deputy Solicitor-General or any Counsel for the State being

a Counsel for the State authorized by the Attorney-General in that behalf for the purpose of such regulation ;

“competent authority” in relation to any emergency regulation means, unless otherwise provided for in such regulation, any person appointed by name, or by office by the President to be a competent authority for the purpose of such regulation ;

“emergency regulation” means any of these regulations or any other regulations made under the Public Security Ordinance ;

“essential service” means any service which is of public utility or essential for national security or preservation of public order or to the life of the community and includes any Department of Government or branch thereof ;

“Inspector-General of Police” shall include any Deputy Inspector-General of Police ;

“land” includes land covered with water and parts of houses or buildings ;

“Police Officer” means a member of any Police Force established under the Police Ordinance.

“public officer” shall have the same meaning as in the Constitution ;

“requisitioning” means, in relation to any property, the taking possession of the property or requiring the property to be placed at the disposal of the requisitioning authority and its grammatical variations or cognate expression shall be construed accordingly ;

“Secretary to the Ministry of Defence” includes any Additional Secretary to the Ministry of Defence ;

“Sri Lanka” includes the territorial waters thereof ;

“territorial waters” shall have the same meaning as in the Constitution ;

“vessel” includes boats, canoes, raft and craft of every description.

(2) The Interpretation Ordinance shall apply to the interpretation of an emergency regulation and of any orders and rules made thereunder, as it applies to the interpretation of an Act or Ordinance or Law.

(3) Any reference in any document or any other written law to any emergency regulation shall, unless the contrary intention appears, be construed as a reference to that regulation, as amended by any subsequent regulation made under the Public Security Ordinance.

(4) Where any emergency regulation requires or enables a period to be specified in any direction or order made under such regulation and such direction or order does not specify any such period, such period shall be deemed to be the period during which the regulations under which such direction or order is given or made remains in force.

Emergency powers to be in addition to other powers.

3. Save as otherwise expressly provided, the powers conferred by any emergency regulation shall in addition to and not in derogation of any other rights or powers which by law are vested in or conferred on the President or any other authority or person.

Delegation of powers of the President to any Minister.

4. Any power, duty or function conferred or imposed on the President by any emergency regulation may be exercised, performed or discharged by any Minister who is authorized in that behalf by the President.

5. (1) The President shall appoint, by name or by office, appointment of any person as Competent Authority for the purposes of any emergency regulation may be made generally for the whole of Sri Lanka or for any area or place specified in writing by which such person is appointed and may be limited to such of those purposes as may be specified in writing :

Appointment of Competent Authority.

Provided that nothing in the preceding provisions of this paragraph shall be deemed to preclude the appointment of two or more persons to be competent authorities for any of the purpose of any regulation or for any specified area or place.

(2) Where the holder of a designated office had been appointed to be a competent authority, then, unless express provision is made to the contrary, the appointment shall be deemed to extent to the person for the time being performing the duties of the office designated.

6. Without prejudice to any special provisions contained in any emergency regulation a notice to a be served on any person for the purpose of any emergency regulation may be served by sending it by post addressed to that person at his last or usual place of abode or place of business.

Service of Notice.

7. Any power conferred by any emergency regulations to make any order or rule shall be construed as including a power, exercisable in the like manner and subject to the like conditions, if any, to revoke or vary the order or rule.

Revocation and variation of order.

PART II

TAKING POSSESSION OF PREMISES AND VEHICLES AND THE REQUISITIONING OF PERSONAL SERVICES

8. (1) Where any building or premises are necessary for relief work in connection with any natural disaster, the Commander of the area of the Sri Lanka Army, the Sri Lanka Navy and the Sri Lanka Air Force, shall take possession of such building or premises for such purpose and shall evict any person found therein or ordinarily resident therein and secure such premises from access to any unauthorized persons :

Requisitioning of premises.

Provided, that any person claiming ownership to such property shall be entitled to make application in that behalf to the High Courts for the making of an order for the release of such property and the Court may, on the expiration of a period of two weeks from the making of such order release such property, if it is satisfied that such property was used without his knowledge or contrary to his instructions.

Provided, further that if no proceedings are instituted within six months of the taking into possession of such property for the commission of an offence as is referred to above, such property shall be returned to its lawful owner.

(2) Where any person is convicted of any offence under this regulation and the Court is satisfied that such premises or building had been used in the commission or in connection with the Commission of, an offence under this regulation the Court shall, in addition to any penalty which it may impose for such offence, order that such property be forfeited to the Republic.

9. (1) If the Competent Authority is of opinion that it is necessary or expedient to do so in the interests of national security, the preservation of public order or for the maintenance of supplies and services essential to life of the community, he may requisition any vehicle in Sri Lanka and may give such directions as appear to the competent Authority to be necessary or expedient in connection with the requisitioning.

Requisitioning of vehicles.

(2) Where the competent Authority requisitions any vehicle under paragraph (1) of this regulation, the Competent Authority may use or deal with or authorize the use of, or dealing with, the vehicle for such purpose and in such manner as the Competent Authority thinks expedient in the interests of national

security, the preservation of public order or for the maintenance of supplies and services essential to life of the community.

(3) If a Competent Authority is of opinion for the effectual exercise of the powers conferred by paragraph (1) of this regulation so to do, he may, by order made in respect of the whole of Sri Lanka or any specified part thereof, direct that no person who at the time when the order takes effect, has in his possession or under his control at any premises in the area to which the order relates, any such vehicle as may be described in the order, shall remove the vehicle, or cause or permit it to be removed from the premises until the removal therefrom is permitted by such person or authority as may be specified in such order.

(4) Any officer of the armed forces or any officer of the government shall, upon being requested to do so, aid and assist any person in the exercise of the powers conferred on that person by the preceding provisions of this regulation.

Requisitioning of personal service.

10. The President may by order under her hand require or may delegate to any one or more authorities or officers specified in that behalf the power in like manner to require, any person to do any work or render any personal service in aid, or in connection with, national security or the maintenance of essential services. Where any person contravenes or fails to comply with any order made under this regulation guilty of an offence.

Appointment of Commissioner-General of Essential Services.

11. (1) The President may by order appoint any person by name or by officer to the Commissioner-General of Essential Services for the whole of Sri Lanka. It shall be the duty of the Commissioner-General of Essential Service to execute and co-ordinate all activities relating to the maintenance of essential services.

(2) The Commissioner-General of Essential Services may appoint, by name or by office, such Deputy Commissioners or Assistant Commissioners as may be necessary for the performance of his duties under these regulations.

(3) The Commissioner-General of Essential Services may delegate to any Deputy Commissioner of Assistant Commissioner appointed under paragraph (2) any power, duty or function conferred to imposed on, or assigned to such Commissioner-General by or under these regulations.

(4) For the purpose of the performance of duties under this regulation, the Commissioner-General of Essential Services may exercise any power conferred on any authority or officer to whom any power under regulation 10 has been delegated under the regulation.

(5) The Commissioner-General of Essential Service may give to -

(a) any authority or officer, to whom any power has been delegated under regulation 10 ; and

(b) any co-ordinating officer appointed under regulation 48,

such directions as may be necessary for ensuring the maintenance of essential services and it shall be the duty of such authority, officer or co-ordinating officer as the case may be, to comply with every such direction.

Essential Services.

12. (1) The President may by Order published in the *Gazette*, declare any service to be an essential service, if it appears to be so necessary for the preservation of public order and for the maintenance of supplies and services essential to the life of the community.

(2) Any person engaged or employed in any work, in connection with a service declared to be an essential service by the President by in terms of paragraph (1), who -

- (a) fails or refuses without lawful excuse after the lapse of one day from the date of such Order, to attend at his place of work or employment or 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 who fails or refuses without lawful excuse to work or keeps away from work, without working during the full period or any part of the normal working day as is required by him in accordance with the terms and conditions of his employment in such service ; or
- (b) fails or refuses without lawful excuse after the lapse of one day from the date of such Order to perform such work as he may be directed by his employer or a person acting under the authority of his employer, to perform ; or
- (c) being a person engaged or employed in a specified service, fails or refuses without lawful excuse to perform such work as he may from time to time be directed by his employer or a person acting under the authority of his employer, to perform at such time or place or within such periods as may be specified by such employer or such person for the performance of such work (whether such time or place or period is within or outside normal working hours or on holidays) he shall, notwithstanding that he has failed or refused to so attend or to so work in furtherance of a strike or other organized action-
 - (i) be deemed for all purposes to have forthwith terminated or vacated his employment notwithstanding anything to the contrary in any other law or the terms and condition of any contract governing his employment ; and
 - (ii) in addition, be guilty of an offence.

In this paragraph “specified service” means any essential service which is declared to be a specified service by the President under paragraph (1) being an essential service, in which a person employed or engaged in any work in connection with such service, may be required to work outside normal working hours or on holidays.

(3) Where any service is declared to be an essential service by the President, by Order published in the *Gazette* -

- (a) any person who, in any manner whatsoever -
 - (i) impedes, obstructs, delays or restricts the carrying on of that service ;
 - (ii) impedes, obstructs or prevents any other person employed in, or in connection with the carrying on of that service from attending at his place of work ;
 - (iii) incites, induces or encourages any other person employed in, or in connection with the carrying on of that service to refrain from attending at his place of work ;
 - (iv) compels, incites, induces or encourages the establishment or maintenance of any other service in lieu of, or parallel with that service, being a government department or branch thereof ;
 - (v) compels, incites, induces or encourages any other person employed in, or in connection with, the carrying on that service, to surrender or depart from his employment (whether or not such other person does so surrender or depart in consequence) ; or
 - (vi) prevents any other person from offering or accepting employment in, or in connection with, the carrying on of that service ;

- (b) any person who, by any physical act or by any speech or writing incites, induces or encourages any other person to commit an act specified in sub-paragraph (a) of this paragraph (whether or not such other person commits in consequence any act so specified).

shall be guilty of an offence.

(4) Every person who is deemed to have terminated or vacated his employment by reason of the operation of the provisions of paragraph (2) of this regulation shall vacate any quarters provided to him, by or on behalf of the government, within three days of such termination of vacation. Any person who fails to vacate such quarters within such period shall be guilty of an offence under these regulations.

In this paragraph “quarters” means any building or room or other accommodation occupied or used for the purpose of residence and includes any land or premises in which such building, room or other accommodation is situated.

(5) Where any person is convicted by any court of any offence against this regulation, then, in addition to any other penalty that the court shall impose for such offence -

- (a) all property movable or immovable, of that person shall, by virtue of such conviction, be deemed to be forfeited to the Republic ; and
- (b) any alienation or other disposal of such property effected by such person after the date of the coming into force of these regulations shall be deemed to have been and to be, null and void.

(6) Where any service is declared to be an essential service, by the President, by Order published in the Gazette, the services of any officer, servant, employee or agent employed in or belonging to any such service declared to be essential may, wherever deemed to be necessary, be requisitioned by the Secretary to the Ministry of the Minister in charge of the subject of Defence or any officer authorized by him in that behalf, in consultation with the Secretary to the Ministry of the Minister to whom the relevant subject has been assigned.

Appointment of
Commissioner of
Civil Security.

13. (1) The President may, by order, appoint any person by name or by office to be the Commissioner of Civil Security for the whole of Sri Lanka. It shall be the duty of the Commissioner of Civil Security to execute and co-ordinate all activities relating to the maintenance of Civil Security.

(2) There may be appointed by name or by office, such Deputy Commissioners, Assistant Commissioners or Competent Authorities as may be necessary to assist the Commissioner of Civil Security in the performance of his duties under these regulations.

(3) The Commissioner of Civil Security may delegate to any Deputy Commissioner, Assistant Commissioner or Competent Authority appointed under paragraph (2) any power, duty or functions conferred or imposed on, or assigned to, such Commissioner, by or under these regulations.

(4) For the purpose of the performance of duties under these regulations, the Commissioner of Civil Security may exercise any power-conferred on any Authority or officer to whom any power under regulation 10 has been delegated under that regulation.

(5) The Commissioner of Civil Security may give to -

- (a) any authority or officer, to whom any power has been delegated under regulation 10 ; and
- (b) a co-ordinating officer appointed under regulation 48,

such directions as may be necessary for ensuring the maintenance of Civil Security, and it shall be the duty of such Competent Authority to comply with every such direction.

14. Every Divisional Secretary shall appoint for their respective Divisional Secretary's Divisions, an Advisory Committee consisting of public servants and other recognized persons in the community. It shall be the duty of every such committee to advise the relevant authorities on the preservation of public order and the maintenance of essential supplies and services, in the Divisional Secretary's Division. Advisory Committees.

PART III

RIGHT OF ENTRY, & C.,

15. (1) If a competent authority is of opinion that special precautions should be taken to prevent the entry of unauthorized persons into any area, place or premises wholly or mainly occupied or used for the maintenance of essential services, that competent authority may be order provide that no person shall, subject to such exemptions as may be specified in the order enter or remain upon that area or place or those premises without the permission or such authority or person as may be specified in the order. Prevention of unauthorized entry.

(2) If any person, is in any area, place or premises in contravention of an order made under this regulation, then without prejudice to any other proceeding that may be taken against him, he may be removed there from by any police officer or any member of Sri Lanka Army, the Sri Lanka Navy or the Sri Lanka Air Force or by any other person authorized in that behalf by a competent authority.

(3) In this regulation. "Competent Authority", in relation to any essential service, means any person appointed by name or by office, to be a competent authority for the purposes of that service by the President.

PART IV

SEARCH AND ARREST

16. (1) Any police officer, any member of the Sri Lanka Army, the Sri Lanka Navy or the Sri Lanka Air Force, or any other person authorized by the President to act under this regulation may search, detain for purposes of such search, or arrest without warrant, any person who is committing or has committed or whom he has reasonable grounds for suspecting to be concerned in or to be committing, or to have committed, an offence under sections 354, 355, 356, 357, 358, 359, 360, 360A, 360B, 360C, and sections 364, 365, 365A and 365B, and section 427 to 446 of the Penal Code (Chapter 19) and may search, seize, remove and detain an vehicle, vessel, article, substance or thing whatsoever used in, or in connection with, the commission of the offence. Search and arrest for offences.

(2) Any person detained or arrested by a member of the Armed Force under paragraph (1) shall, within twenty-four hours, be handed over to the nearest police station.

(3) Any person conducting a search under paragraph (1) of this regulation may question any other person present in the premises, place, vehicle or vessel searches, or the person who is searched, in regard to any matter connected with or relating to the purpose of the search.

(4) Every person who is questioned under paragraph (3) of this regulation shall furnish such information as is within his knowledge in regard to the matter on which he is questioned.

(5) The person residing in or in charge of any premises, place, vehicle or vessel which is to be searched under this regulation shall, on demand of the person conducting the search allow him free ingress thereto and afford all reasonable facilities for a search therein.

(6) A person conducting a search under this regulation may, in order to effect an entrance into the premises, place, vehicle or vessel to be searched, open or break open any outer or inner door or window.

(7) Whenever it is necessary to cause a female to be searched, the search shall be made by another female.

(8) It shall be the duty of the arresting officer to report the arrest made under paragraph (1), where the arresting officer is a police officer, to the Superintendent of Police of the Division within which the arrest is made, and where the arresting officer is a member of the armed force, to the Commanding Officer of the area within which the arrest is made, within 24 hours of the arrest.

(9) Where any property is seized or detained under the provisions of this regulation a person effecting the seizure or detention shall issue a receipt in respect of such property to the person from whose custody such property was seized or detained.

PART V

OFFENCES AND PENALTIES

Offences.

17. (1) Any person who -

- (a) does, any act which causes the destruction of, or damage to property, whether movable or immovable, or any such change in any such property, as destroys or diminishes its value or utility ; or
- (b) causes or attempts to cause death or injury to any person with fire or any combustible matter or any explosive or corrosive substances or with any missile, weapon or instrument of any description ; or
- (c) commits any offence under section 354, 355, 356, 357, 358, 359, 360, 360A, 360B and 360C of the Penal Code under any circumstances whatsoever;
- (d) commits theft of any article in any premises which have been left vacant or unprotected or which have been damaged or destroyed; or
- (e) commits any offence under any of the sections 427 to 446 of the Penal Code or illegally removes, or attempts to remove, any goods or articles from any such premises ; or
- (f) commits any offence under any of the sections 364, 365, 365A and 365B of the Penal Code or illegally removes, or attempts to remove, any goods or articles from any such premises ; or
- (g) dishonestly receives or retains any article or goods referred to in sub-paragraph (c) or sub paragraph (d), knowing or having reasons to believe, an offence had been committed in respect of such article or goods under sub - paragraph (c),

shall be guilty of an offence and, notwithstanding anything in the Penal Code or in these regulations shall, on conviction thereof before the High Court, be liable to suffer death or imprisonment of either description.

(2) Section 96 of the Penal Code which relates to the right of private defence of property and prescribes the circumstances in which death or other harm can be caused to a wrongdoer in the exercise of such right shall have effect as though there were added at the end of that section the following :-

“Fifthly any offence under regulation 15 of the Emergency (Miscellaneous Provisions and Powers) Regulations”.

(3) (a) An indictment in respect of any offence under this emergency regulation may be forwarded by the Attorney - General, if he is satisfied that the offence was committed in furtherance of or in connection with or in the course of a civil disturbance prevailing at or about the time of the commission :

Provided that, having regard to the circumstances relating to the commission of any offence, he may authorize the Inspector - General of Police to institute proceedings in respect of such cases or such category of cases as he may specify in the Magistrate's Court and thereupon such proceedings may be instituted with the written authority of the Inspector - General of Police, and the provisions of Chapter XVII of the Code of Criminal Procedure Act, No. 15 of 1979, relating to the trial in respect of such offences, shall, *mutatis mutandis*, apply.

(b) Where the proceedings are instituted in a Magistrate's Court, the offence shall be punishable with the punishment provided for in regulation 29 of these regulations.

18. No person shall —

Prevention of disaffection.

(a) endeavour to cause disaffection among persons who are —

- (i) public officers ; or
- (ii) engaged in the service of the Republic ; or
- (iii) engaged in the performance of essential services ; or

(b) endeavour to induce any person referred to in paragraph (a) to do or omit to do anything in breach of his duty as a public officer or as a person as aforesaid would constitute such a contravention.

19. No person shall affix in any place visible to the public, distribute among the public any posters, hand bills or leaflets, the contents of which are prejudicial to public security, public order or the maintenance of supplies and services essential to the life of the community.

Distribution of leaflets &c.,

20. No person shall, by word of mouth or by any other means whatsoever, communicate or spread any rumour or false statement which is likely to cause public alarm or public disorder.

Communicating or spreading rumours or false statements.

21. Any person who -

False Statements.

(a) in answer to any request made in pursuance of any emergency regulation or any order made any such regulation makes any statement or furnishes any information which he knows or has reasonable cause to believe to be false in a material particular ; or

(b) makes such a statement as aforesaid in any account, declaration, estimate, return or other document which he is required by any emergency regulation or by order under any emergency regulation to make,

shall be guilty of an offence.

22. No person shall throw any thing or substance at any person or at any engine, tender carriage or truck upon any railway, or at any vehicle upon any public road, in such manner as to endanger the safety of such person or any person who is in or upon such engine, tender carriage, truck or vehicle, any person who contravenes any of the preceding provisions of this regulation shall be guilty of an offence and shall upon conviction be liable to rigorous imprisonment for a term of not less than ten years.

Throwing missiles.

23. (1) No person shall, attend at or near a house or place where any other person resides or works or carries on business or happens to be in, such manner as to be calculated to intimidate any person in that house or place or to obstruct the approach thereto or egress there from, or to lead to a breach of the peace.

Prevention of intimidation.

(2) In this regulations, the expression “intimidate” means to cause in the mind of a person a reasonable apprehension of injury to him or to any member of his family or to any of his dependants or of violence or damage to any person or property and the expression “injury” includes injury to a person in respect of his business, occupation, employment or other source of income, and includes any actionable wrong.

Resistance to or obstruction of persons in authority.

24. No person shall resist or obstruct any other person in the exercise or discharge of any power of duty conferred or imposed on that other person by or under any emergency regulation.

Obstruction or damage to roads, railways &c.,

25. No person shall without lawful authority cause any obstruction or damage to any public road, bridge or culvert, or to any railway, of any public any road, transport vehicle.

Attempts to commit offences.

26. Any person who -

(a) attempts to commit or does any act preparatory to the commission of ; or

(b) aids or abets another person to commit ; or

(c) conspires with another person, in the commission of,

an offence under any emergency regulation shall himself be guilty of that offence and shall accordingly be tried in like manner and be punished with the same punishment as is prescribed for such offence under the emergency regulation.

Assisting an offence.

27. No person knowing or having reasonable cause to believe that any other person is guilty of an offence under any emergency regulation shall give that other person any assistance with intent thereby to prevent, hinder or interfere with the apprehension, trial or punishment of that person for the said offence.

Offences by bodies of persons.

28. Where an offence under any emergency regulation is committed by a body of person, then -

(a) if that body is a body corporate, every director or that body corporate ; and

(b) if that body is a firm, every partner of that firm,

shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent that commission of the offence.

Penalties.

29. (1) If any person contravenes or fails to comply with any emergency regulation, or any order or rule made under any such regulation or any direction given or requirement imposed under any such regulations, he shall be guilty of an offence, any subject to any special provisions contained in such regulation, shall on conviction after trial before that High Court without a jury or before a Magistrate, be liable to rigorous imprisonment for a term not less than three months and not exceeding five years and to a fine of not less than five hundred rupees and not exceeding five thousand rupees.

(2) Where no punishment is prescribed in any emergency regulation for an offence under that regulation a person guilty of such offence shall, on conviction after trial without a jury before the High Court or before a Magistrate, be liable to the same punishment as that specified in paragraph (1) of this regulation.

(3) Section 306(2) of the Code of Criminal Procedure Act, No. 15 of 1979, shall not apply to any person convicted of an offence under any emergency regulation.

PART VI

INVESTIGATION, TRIALS &C.,

30. (1) Whoever becomes aware of an intention of an attempt or a preparation to commit, or the Commission of an offence under any emergency regulations shall forthwith give information thereof to the nearest Grama Niladhari or to the Officer-in-charge of the nearest police station. Duty to disclose information.

(2) Any person who wilfully fails to refuse to give the information referred to in paragraph (1) shall be guilty of an offence.

(3) Any Grama Niladhari who receives any information relating to an offence under an emergency regulation shall forthwith transmit such information to the nearest police station.

31. Any police officer investigating into an offence under any emergency regulation may -

Power of police officers to investigate.

- (a) orally examine any person suspected to be acquainted with the facts and the circumstances of the offence and shall reduce into writing any statement so made ;

Provided that such statement shall, after it is reduced into writing be signed by both the person making the same as well as the police officer recording the same ;

Provided further that if any person refused to sign the statement after it is reduced into writing, such refusal shall be recorded by the police officer ;

- (b) obtain specimen handwriting, photographs, fingerprints and other identifying features of such person ;
- (c) search such person or enter and search the dwelling house or the place of work of such person ;
- (d) enter and search any place, building, vehicle or vessel concerned in or connected with or suspected to be concerned in or connected with, any such offence ; and
- (e) inspects and takes possession of any movable property whatsoever including any telegraph message, postal document or other book or document in any bank ;

Provided, however, that before any book or document is sought to be obtained from any bank, or post office, the manager of office-in-charge of such bank or post office, as the case maybe, shall be furnished with prior written information by a Police Officer not below the rank of an Assistant Superintendent that such book or document is required for the purpose of such investigation.

32. Any book, document or paper found in the possession, custody or control of a person suspected to be concerned in any offence under any emergency regulation shall be relevant in any proceedings against such person in respect of such offence and the contents of such book, document or paper shall be admitted in evidence, against such person without proof thereof.

Documents of suspected persons in possession.

33. (1) A police officer or a person duly authorized under the emergency regulations investigating into an offence under any emergency regulation shall notwithstanding anything to the contrary in any other law, have -

The right to make inquiries and the duty to give assistance.

- (a) the right to question any person, including a person detained or held in custody under any emergency regulation and to take such person from place to place for the purpose of such investigation during the period of such questioning ; and

(b) the right to take charge from any person so questioned any article or other thing including a document necessary for the purpose of such investigation.

(2) It shall be the duty of every person to give all assistance to a Police Officer or other person duly authorized, investigating into a offence under any emergency regulation, and every person questioned under subparagraph (i) of paragraph (1) of this regulation shall/truthfully answer all questions put to his and notwithstanding any thing to the contrary in any other law shall disclose all information including the contents of any document, touching the subject matter of the investigation, irrespective of the capacity in which such person has received such information or knowledge of the contents of such document.

(3) It shall be the duty of every person questioned under paragraph (1) of the regulation to deliver to the police officer or a person duly authorized, investigating into a offence under any emergency regulation any article or other thing including a document in the custody or possession of such person when directed so to do by such police officer or person duly authorized.

(4) A contravention of any of the provisions of this regulation or the breach of any duty imposed thereunder shall be an offence under the emergency regulation punishable under regulation 48 of these regulations.

Right of access to police officer.

34. During the period that any person is held in detention or custody, a police officer investigating into an offence under any emergency regulation shall have a right of access during reasonable hours to any such person for the purpose of such investigation.

Powers of police officer to be in addition to other powers.

35. The powers of a police officer under any emergency regulation shall be in addition to, and not in derogation of, his powers under any other written law.

Powers of a police officer to be exercised by certain other officers and persons.

36. (1) The powers of a police officer under any emergency regulation may be exercised by any commissioned or non-commissioned officer of the Sri Lanka Army, the Sri Lanka Navy or the Sri Lanka Air Force who is authorized to do so by the Commander of the Sri Lanka Army, the Commander of the Sri Lanka Navy or the Commander of the Sri Lanka Air Force respectively.

(2) The powers of police office under any emergency regulation may also be exercised by any person authorized by the President in that behalf.

Priority for Court proceedings.

37. The proceedings in any court in respect of an offence alleged to have been committed by a person under any emergency regulation shall be taken up before any other business of the court.

Inquires and trials.

38. (1) Save as otherwise herein provided and notwithstanding any other written law the proceedings in respect of an offence alleged to have been committed by a person under any emergency regulation may be taken before the appropriate court in Sri Lanka having jurisdiction over the place where that person in for the time being.

(2) The Attorney-General may decide in which court -

- (a) offences alleged to have been committed by persons under the emergency regulations ; or
- (b) offences alleged to have been committed by persons under any other written law where the acts or commissions constituting such offences were consequent on, or arose out of, or were done or omitted to be done in, whether directly or indirectly, the exercise or performance, or the supposed exercise or performance, of any power or duty under such regulations,

shall be inquired in to or tried. Such court shall be a court, which would have had jurisdiction to inquire into or try such offences. If such offences had been committed within the local limits of the jurisdiction of such court.

(3) Where at least one of the charge is for an offence referred to in subparagraph (b) of paragraph (2) the Attorney-General may, notwithstanding the provisions of any other written law, forward an indictment directly to the High Court and the accused shall be tried upon the indictment so preferred without a jury.

(4) Where the Attorney-General decides, under paragraph (2) of this regulation the court by which any offence shall be inquired into or tried, he shall by his fiat in writing designate such court as the court by which such offence shall be inquired into or tried and accordingly such inquiry or trial shall be held by such court on the authority of such fiat, which shall be filed of record with the proceedings of such inquiry or trial.

(5) A decision of the Attorney-General under paragraph (2) of this regulation may be made applicable to -

- (a) all offences alleged to have been committed by persons under the emergency regulations throughout Sri Lanka or in any particular area in Sri Lanka ; or
- (b) all such offences alleged to have been so committed by persons of any particular class or description in any particular area in Sri Lanka ; or
- (c) all such offences of any particular class or description alleged to have been so committed by persons throughout Sri Lanka or in any particular area in Sri Lanka ; or
- (d) all such offences of any particular class or description alleged to have been committed by person of any particular class or description, or any particular person, throughout Sri Lanka or in any particular area in Sri Lanka ; or
- (e) any particular offence alleged to have been committed by any particular person throughout Sri Lanka or in any particular area in Sri Lanka.

(6) During the continuance in force of this regulation, section 47 of the Judicature Act, No. 02 of 1978, which empowers the Attorney-General to transfer and inquire into (or trial of) any criminal offence from any court or place to any other court or place or shall have effect as if sub-section (2) of that section were not in force.

39. (1) Subject to the provisions of paragraph (3) of regulation 21 no prosecution shall be instituted in the magistrate's Court -

Sanction of the Attorney-General.

- (a) for an offence against any emergency regulation ; or
- (b) for an offence against any other written law where the act or omission constituting such offence was consequent on, or arose out of, or was done or committed to be done in, whether directly or indirectly, the exercise or performance, of any power or duty under such regulation.

except by or with the written sanction of the Attorney-General.

(2) The President may by order declare that the provisions of paragraph (1) of this regulation shall not apply in respect of any offence against any such emergency regulation as may be specified in the order and accordingly, so long as such order remains in force, that paragraph shall not apply to any such offence.

40. (1) Notwithstanding any emergency regulation or other written law the trial, including a trial at bar, for any offence under the emergency regulations, may be held upon indictment by the Attorney-General and thereupon the person charged shall be tried without a preliminary inquiry before the High Court at bar, as the case may be, without a jury ;

Trials before High Court.

Provided that where the Attorney-General being of opinion that evidence recorded at a preliminary inquiry will be necessary for preparing an indictment, may direct the holding of a preliminary inquiry. The provisions of Chapter XV of the Code of Criminal Procedure Act, No. 15 of 1979 shall *mutatis mutandis*, apply to such preliminary inquiry.

(2) A person indicted before the High Court under this regulation shall not be admitted to bail except with the consent of the Attorney-General.

(3) Subject to the provisions of paragraph (2) at any trial under this regulation the Court or the presiding Judge there of may give directions for the summoning arrest custody or bail of all persons charged before the Court.

(4) The trial of any person before the High Court under this regulation may commence or continue in the absence of such person if the Court is satisfied that he is evading arrest or absconding or feigning illness.

(5) Any person indicated before the High Court under these regulations may at any time which shall not extend to more than thirty days before the commencement of such trial, by application in writing to the High Court, request that he be furnished with copies of the statements made by witnesses whom the prosecution intends to call and of the documents to be relied on at the trial and the Court may direct that copies of all such statements or documents, or of only such statements or documents as the Court in its discretion thinks fit, shall be given to such person.

(6) A trial before the High Court under these regulations, including a High Court at Bar, shall be held as speedily as possible and in the manner provided under any other written law for other trials before the High Courts, or the High Court at Bar, as the case may be, without a jury.

Admissibility of
statement in
evidence.

41. (1) At the trial of any person for an offence under an emergency regulation a statement made by such person whether or not it amounts to a confession and whether or not such person was in the custody of a police officer at the time the statement was made and whether or not such statement was made in the immediate presence of a Magistrate may be proved as against such person, if but only, if such statement is not irrelevant under section 24 of the Evidence Ordinance. :

Provided however, that no such statement shall be proved against such person if such statement was made a police officer below the rank of Assistant Superintendent of Police.

(2) In the case of an offence under any emergency regulation a statement made by any person which may be proved under paragraph (1) as against himself may be proved as against any other person jointly charged with such offence, if but only if, such statement is corroborated in material particulars by evidence other than a statement made under regulation 50 of these regulations.

(3) The burden of proving that any statement referred to in paragraph (1) or (2) irrelevant under section 24 of the Evidence Ordinance shall be on the person asserting it to be irrelevant.

(4) The provisions of sections 25, 26 and 30 of the Evidence Ordinance shall not apply in the case of any offence under any emergency regulation.

(5) A statement made by any person may be proved under paragraph (1) or paragraph (2) notwithstanding the provisions of sub-section (3) of section 110 of the Code of Criminal Procedure Act, No. 15 of 1979.

42. The provisions of Chapter XI of the Code of Criminal Procedure Act, No. 15 of 1979, shall not apply to any investigations conducted under any emergency regulation. Provisions of Chapter XI of the Code of Criminal Procedure Act, No. 15 of 1979 not to apply.
43. (1) In any proceedings for an offence, a certificate purporting to be under the hand of the Government Analyst, Deputy Government Analyst or Assistant Government Analyst or any other officer acting in such capacity in regard to the identity, composition or character of any thing or matter submitted to him for examination or analysis, shall be conclusive proof of the truth of the statements contained in such certificate without such person being called to testify in such proceedings. Certificate of Government Analyst and destruction of anything or matter by Government Analyst.
- (2) Where the Government Analyst, Deputy Government Analyst or Assistant Government Analyst or any other officer acting in such capacity is of opinion that it is not safe or practicable to keep in his custody any thing or matter submitted to him for examination or analysis in connection with any offence such officer may, after making the necessary examination or analysis, cause such thing or matter to be disposed of or destroyed.
- (3) Where any thing or matter is disposed of or destroyed under the provisions of paragraph (2), a record of the thing or matter disposed of or destroyed shall be maintained by the Government Analyst, the Deputy Government Analyst, Assistant Government Analyst or any other officer acting in such capacity as the case may be : and a Certificate purporting to be under the hand of any such officer containing the substance or contents of such record shall in any proceedings for any offence under these regulations, be conclusive proof of the truth of the statement contained in such Certificate without such officer being called in such proceedings.
- (4) In this regulation "offence" means any offence under any emergency regulation or under Chapter VI or Chapter VII or Chapter VIII of the Penal Code.

PART VII

MISCELLANEOUS

44. (1) During the continuance in force of this regulation any police officer of a rank not below that of a Sergeant, any member of the Sri Lanka Army of a rank not below that of a Corporal, any member of the Sri Lanka Navy of a rank not below that of a Leading Seaman, or any member of the Sri Lanka Air Force of a rank not below that of a Corporal, may order any person or persons in or about any public road, railway, public park, public recreation ground or other public ground, seashore, or in or about, or in the vicinity of, the premises of any public building or Government Department, to remove himself or themselves from that place and it shall be the duty of such person, or each such person, as the case may be, to comply with such order. Miscellaneous powers.
- (2) If, upon the issue of an order under sub-paragraph (b) of paragraph (1) of this regulation by any officer empowered to issue such order, any person does not comply with the order or conducts himself in such a manner as to show a determination not to comply with the order such officer with such assistance as may be necessary, may proceed to give effect to such order by force including armed forces and may cause such person to be removed or arrested and confined.
- (3) During the continuance in force of this regulation, section 306(1), (2) and (4) of the Code of Criminal procedure Act, No. 15 of 1979, shall not apply to or in relation to any person who is charged with, or is convicted of, any offence under any emergency regulation.

Duty to answer questions.

45. (1) Notwithstanding anything in any other law to the contrary, a person taken into custody and detained under any emergency regulation may, during the period of such custody and detention, be questioned by any Police officer, or any other officer authorized by the Commissioner of the Army, Commander of the Navy or Commander of the Air Force and it shall be the duty of the person so questioned to answer the question addressed to him.

(2) For the purpose of questioning any person taken into custody and detained under paragraph (1) or for any other purpose connected with such questioning, any officer referred to in paragraph (1) of this regulation may remove such person from any place of detention or custody and keep him in the temporary custody of such officer for a period not exceeding seven days at a time.

Power to obtain information or examine articles.

46. (1) Without prejudices to any special provisions contained in these regulations, any person shall, on being specified so to do by or on behalf of a competent authority, furnish or produce to such authority or person as may be so specified, being information or an article which the authority or person making the request is of opinion that is it necessary or expedient to obtain or examine in the interests of the national security or the maintenance of public order, or for the purposes of any emergency regulation and if any person fails to furnish or produce any information or article in his possession in pursuance a request duly made to him under this regulation, he shall be guilty of an offence.

(2) In this regulation, "article" includes any book, account or document.

Exemption of members of the armed forces from certain provisions of the Motor Traffic Act.

47. A member of the Sri Lanka Army, the Sri Lanka Navy, or the Sri Lanka Air Force shall, when he is driving any motor vehicle when authorized so to do by the Competent Authority, for the purpose of the preservation of public order, be exempt for such of provisions of the Motor Traffic Act and the regulations made thereunder as are specified in Schedule A to the Motor Traffic (Exemption of Her Majesty's Forces) Regulations, 1955, published in Gazette No. 10, 815 of 08th July, 1955.

The powers duties and functions of a Government Agent, may be to a Government Agent in such. written Law exercised or performed by a Co-ordinating Officer.

48. (1) The President may, by order, appoint any person, by name or by office, to be the Co-ordinating Officer for any area in Sri Lanka specified in the order.

(2) Where a Co-ordinating Officer is appointed by the President by order for any area in Sri Lanka, such officer shall exercise, perform or discharge in that area all the powers, duties or functions conferred or imposed on a Government Agent under any written law or otherwise, and for that purpose every reference shall in its application in the case of that area, be constructed as a reference to such Co-ordinating Officer.

(3) President may, by order, appoint any person, by name or by officer, to be a Co-ordinator-in-Chief to exercise supervision over Co-ordinating Officers appointed under paragraph (1) for any such areas as are specified in the order.

(4) The President may appoint, by name or by office, such Deputy Co-ordinators-in-Chief, as may be necessary to assist the Co-ordinator-in-Chief for the performance of his duties under these regulations.

(5) The Co-ordinator-in-Chief may delegate to any Deputy appointed under paragraph (4) any power, duty or function, conferred or imposed on, or assigned to, such Co-ordinator-in-Chief or under these regulations.

(6) Any Co-ordinator-in-Chief appointed under paragraph (3), or any Deputy Co-ordinator-in-Chief appointed under paragraph (4) and to where any power, duty or function of a Co-ordinator-in-Chief has been delegated under paragraph (5), may -

(a) exercise perform or discharge any power, duty or function conferred or imposed on any Co-ordinator Officer by this regulation and over whom he exercises supervision ; and

- (b) give special or general directions to any Co-ordinator Officer over whom he exercises supervision, as to the exercise, performance or discharge by such Co-ordinator Officer, of any power, duty or function conferred or imposed on such Co-ordinator Officer by this regulation.

49. No action or other legal proceeding, whether civil or criminal, shall be instituted in any court of law in respect of any matter or thing done or purported to be done in good faith, under any provisions of any emergency regulation or of any order or direction made or given thereunder, except by, or with the written consent of, the Attorney-General. Protection of action.

02-576