

EMERGENCY POWERS ACT

Act 5 of 1968 – 12 March 1968

ARRANGEMENT OF SECTIONS

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EMERGENCY POWERS ACT

1. Short title

This Act may be cited as the Emergency Powers Act.

2. Interpretation

In this Act—

“law” means any rule of law, whether statutory or otherwise, except the Constitution and this Act;

“period of public emergency” has the same meaning as in section 19 of the Constitution.

3. Regulations

(1) During a period of public emergency, the President may make such regulations as appear to him to be necessary or expedient for the purpose of maintaining and securing peace, order and good government in Mauritius or any part thereof.

(2) Without prejudice to the generality of the powers conferred by subsection (1) but subject to subsection (2A) (a), the regulations may, so far as appears to the President to be necessary or expedient for any of the purposes mentioned in subsection (1)—

- (a) make provision for the arrest and detention of persons and the deportation and exclusion of persons from Mauritius or any part thereof;
- (b) authorise—
 - (i) the taking of possession or control on behalf of Government of any property or undertaking; or
 - (ii) the acquisition on behalf of Government of any property, other than land;

- (c) authorise the search of any person or the entering and search of any premises;
- (d) provide for amending any law, suspending the operation of any law and 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;
- (f) provide for payment of compensation and remuneration to persons affected by the regulations;
- (g) provide for the apprehension, trial and punishment of persons offending the regulations;
- (h) prescribe penalties, by way of fine or of imprisonment, with or without hard labour, for life or for any term, or by way of both fine and imprisonment, that may be imposed for violation of the regulations or of any rules or orders made thereunder;
- (i) establish Courts and tribunals and confer jurisdiction upon any Court (whether established under the regulations or otherwise) or upon any person holding judicial office, whether or not such jurisdiction is exercisable by any other Court, tribunal or person;
- (j) provide for maintaining such supplies and services as are, in the opinion of the President, essential to the life of the community.

(2A) (a) Nothing in subsection (2) shall authorise the making of provision for the trial of persons by military Courts.

(b) Any regulation made under subsection (2) (b) which makes provision for the compulsory taking possession of, or the compulsory acquisition of any interest in, or right over, property of any description shall—

- (i) to any extent to which it is necessary so to do for the purpose of conformity with section 8 of the Constitution, require the prompt payment of adequate compensation in that behalf;
- (ii) give to any person claiming any such compensation a right of access, either directly or by way of appeal, for the determination of his interest in, or right over, the property and the amount of such compensation, to the Supreme Court.

(3) The payment of any compensation or remuneration under such regulation shall be a charge upon the Consolidated Fund.

(4) Regulations made under this section shall apply to the whole of Mauritius or to such part or parts thereof as may be specified in the regulations.

(5) (a) Regulations made under this section shall come into operation on the day on which they are made.

(b) The President shall cause reasonable steps to be taken for the purpose of bringing the purport of the regulations to the notice of the public or of persons likely to be affected by them, in such manner as the President thinks necessary or expedient.

(6) The regulations shall, unless sooner revoked by the President, remain in force until the expiry of the period of emergency in respect of which they are made.

(7) Regulations made under this section shall not be laid before the Assembly.

[S. 3 amended by Act 48 of 1991.]

4. Orders and rules under regulations

Regulations made under section 3 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 the regulations are authorised by this Act 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.

[S. 4 amended by Act 48 of 1991.]

5. Inconsistency

Every regulation made under section 3 and every order or rule made under such a regulation shall have effect notwithstanding anything inconsistent in any other enactment, and any enactment which is inconsistent with any such regulation, order or rule shall, whether that enactment has or has not been amended, modified or suspended in its operation under this Act, to the extent of such inconsistency have no effect so long as such regulation, order or rule remains in force.
