

CHAPTER 40

PUBLIC SECURITY (AMENDMENT)

Act No. 8 of 1959. AN ACT TO AMEND THE PUBLIC SECURITY ORDINANCE.

[13th March, 1959.]

Short title. 1. This Act may be cited as the Public Security (Amendment) Act.

Amendment of the long title to Chapter 40. 2. The long title to the Public Security Ordinance, hereinafter referred to as the "principal enactment", is hereby amended by the substitution, for the words "ENACTMENT OF EMERGENCY REGULATIONS", of the words "ENACTMENT OF EMERGENCY REGULATIONS OR THE ADOPTION OF OTHER MEASURES".

Amendment of section 2 of the principal enactment. 3. Section 2 of the principal enactment is hereby amended, in subsection (1) of that section, by the substitution, for the words "shall come into operation forthwith or on such date as may be specified in the Proclamation.", of the words "shall, forthwith or on such date as may be specified in the Proclamation, come into operation throughout Ceylon or in such part or parts of Ceylon as may be so specified."

Replacement of section 9 of the principal enactment. 4. Section 9 of the principal enactment is hereby repealed and the following section is substituted therefor :—

"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.”.

5. The following new Part is hereby added at the end of the principal enactment:—

Addition of new Part III to the principal enactment.

‘PART III—SPECIAL POWERS OF THE PRIME MINISTER

Calling out the armed forces.

12. (1) Where circumstances endangering the public security in any area have arisen or are imminent and the Prime Minister 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 XII of the Criminal Procedure Code :

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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 Ceylon Army or Royal Ceylon Air Force or of Petty Officer of the Royal Ceylon Navy.

(3) In any area in respect of which an Order is made under subsection (1), section 99 of the Criminal Procedure Code shall have effect as if the expression “peace 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 the Ceylon Army or Royal Ceylon Air Force or of Petty Officer of the Royal Ceylon Navy.

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(4) Where any member of the Ceylon 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.

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(5) Where any member of the Royal Ceylon 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.

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(6) Where any member of the Royal Ceylon 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 Prime Minister or by any person appointed by the Prime Minister to act on behalf of the Prime Minister under this section, seize and remove any gun or explosive in the possession of any person in the area to which 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.

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.

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. 16. (1) Where the Prime Minister 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. (1) Where the Prime Minister 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.

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(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 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.

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.

Certain provisions of written law not to apply to offenders under section 16 or section 17.

19. Section 15b of the Criminal Procedure Code and section 6 of the Payment of Fines (Courts of Summary Jurisdiction) Ordinance shall not apply to any person convicted of an offence under section 16 or section 17.

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

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 Orders made under this Part.

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 the House of Representatives 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.

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.

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

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 in this Part.

24. In this Part—

“armed forces” mean the Ceylon Army, the Royal Ceylon Navy and the Royal Ceylon 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.”

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