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EMERGENCY REGULATIONS

THE RECENT EMERGENCY REGULATIONS IN A NUTSHELL

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THE EMERGENCY REGULATIONS UNDER THE PUBLIC SECURITY ORDINANCE (CHAPTER 40)

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LAW & SOCIETY TRUST

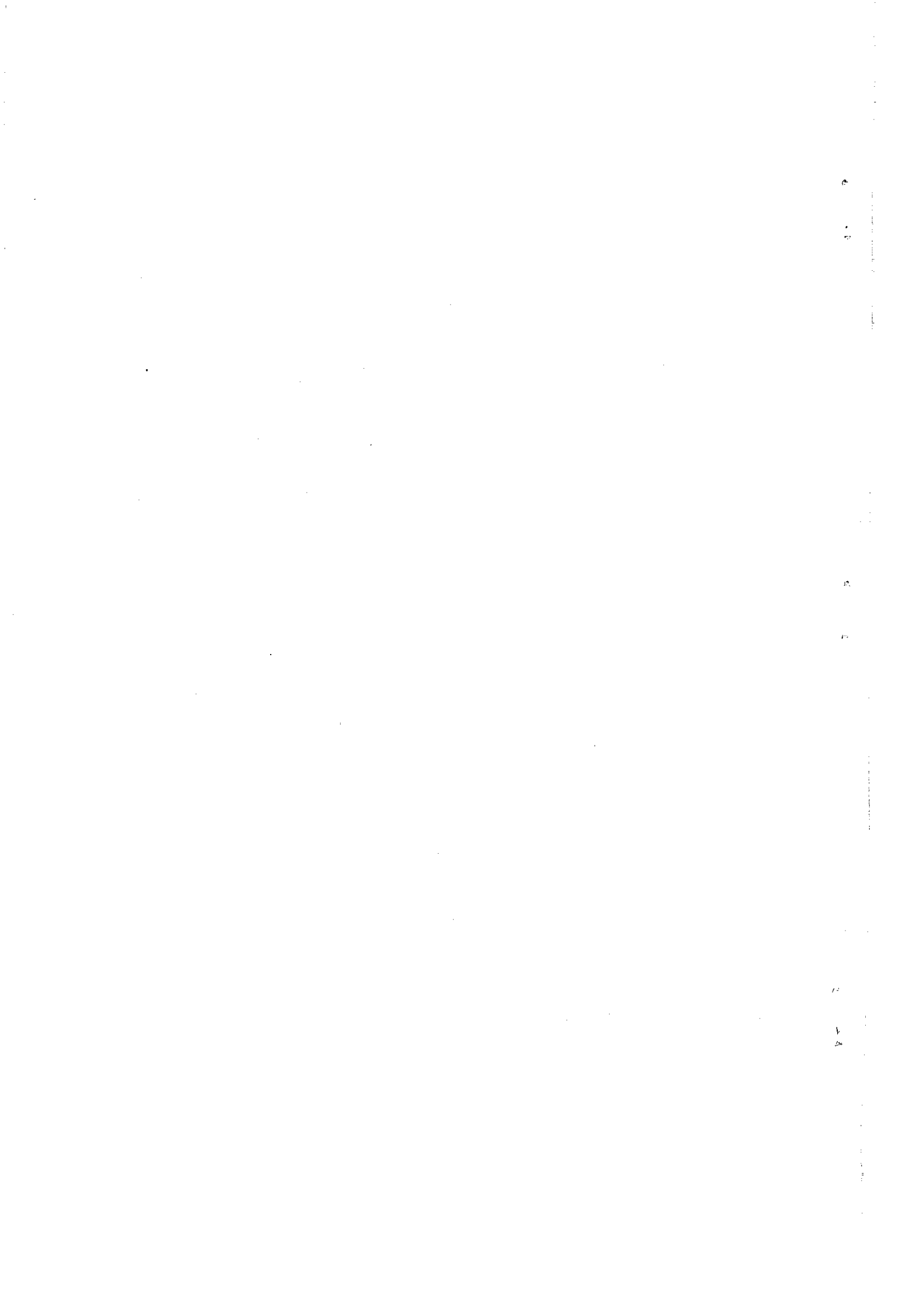
Editor's note.....

Sri Lanka was put on a "war footing" on 3rd May with the promulgation of emergency regulations by the President. In this issue we publish the text of these regulations. These regulations cover issues such as acquisition and requisitioning of property including vehicles, and requisitioning of personal services (this includes designating certain services as essential services), control of meetings, processions, publications, firearms and right of entry (these relate to the censorship and banning of processions); and supervision, search, arrest and detention. Part 5 contains offences and penalties. Under these provisions, any conspiracy to overthrow the government, causing disaffection among public officers, sedition or incitement, display of slogans relating to the overthrow of government, distribution of leaflets etc., prejudicial to public security are among the offences created under the regulations.

These regulations have also suspended the operation of generally accepted principles such as the right to silence and the presumption of innocence. There is a general duty to disclose information and to answer any question put to any person taken into custody or detained under the emergency regulations. The burden of proof is also reversed in certain instances.

We also publish a layman's guide to these emergency regulations as "the ignorance of the law is not a defence."

It is indeed hoped that, if it is necessary to continue on a war footing, these regulations be reviewed and revised as they are not in conformity with the derogation clauses that are permitted under international instruments that Sri Lanka has ratified.



The Recent Emergency Regulations in a Nutshell

Maduranga Rathnayake

We have been living, among all other evils, under emergency regulations continuously for more than two decades. The month of May saw the latest of the emergency regulations declared by the President. This is, however, nothing new since every government in power made it sure that they revised the emergency regulations periodically, under the façade of public security, to suit the political tempo of the country prevailing at the time.

Section 2 of the Public Security Ordinance empowers the President to bring emergency regulations into force, contained in Part 11 of the same Ordinance if the President is of the opinion that it is necessary to do so in the interest of public security, preservation of public order and for the maintenance of essential services.

There is a grave misconception among the Police and the members of the armed forces that the declaration of a state emergency and the promulgation of emergency regulations mean relieving them from the constraints of regular law. A state of emergency does not create anarchy. It should not mean lawlessness.

The reason for the emergency regulations to be so unpopular lies in the fact that they could strip the individual off his constitutionally guaranteed fundamental rights as well as other personal liberties.

The competent authority appointed under the Emergency Regulations is empowered to requisition any article other than lands in Sri Lanka including any vessel or aircraft. The competent authority has the power to use or deal with or to authorize the use of or dealing with in any manner the requisitioned property. Where, however, the requisitioned property is a vessel, vehicle, aircraft, excavator, crane, agricultural implement or agricultural machinery, the competent authority is empowered to acquire it by giving notice to the owner of such vessel, vehicle etc. The Secretary to the Ministry of Defense is empowered to requisition lands.

There is control over publications, public meetings, and processions. Restrictions on publications including the electronic media, especially television and radio, can be placed as censorship through the competent authority. These restrictions might go even to the extent of closing down the media institutions in question. This is a great blow to the freedom of expression and speech. In addition, it violates the right to information. However, the irony is that with modern technology particularly with access to the Internet, the competent authority today is in fact *incompetent* compared to his counterpart a decade ago. The question then arises as to whether it is the less affluent who is being regulated today on an emergency basis?

Trade union action, another important right of the working community of the country are controlled under the emergency regulations. Since any service, work or labour can be declared an essential service under the emergency regulations, trade union actions can be prevented.

The public is haunted by the idea that they can be arrested without a warrant at any moment under the emergency regulations. Although the regular law has certain safeguards against arbitrary and unlawful arrests, in a state of emergency these safeguards are not available. Under the ordinary law, a person is arrested, has to be produced before a magistrate within 24 hours of such arrest. Under the emergency law when a person arrested it is sufficient if that person is handed over within 24 hours to the **nearest police station**.

The Secretary to the Ministry of Defence is empowered under the emergency regulations to issue restriction orders as well as detention orders. By a restriction order, the Secretary is able to restrict the movement of any person in certain situations. No person could be detained under a detention order for a period exceeding one year. It may be recalled, however, that sometime ago hundreds of persons who were arrested and detained under emergency regulations "disappeared" subsequently.

Under the normal law, when arrested, a person has a right to silence and can remain silent until an Attorney-at-Law can be retained to look after his interests; unfortunately the practice has been to break the silence by violence. A duty is now cast upon any person so arrested under emergency regulations to answer the questions put to him.

Whoever becomes aware of an intention to commit an offence or of the commission of an offence under any emergency regulation, has the duty to give such information to the nearest Grama Seva Niladhari or the Officer-in-Charge of the nearest police station. If such person fails to give information he is guilty of an offence.

When required, every householder is under a duty to furnish the Officer-in Charge of the Police Station of the area with a list of all inmates living in his house and any subsequent increase or diminution of the number of inmates has to be reported immediately.

As far as the road rules are concerned, the provisions of the Motor Traffic Act do not apply to members of the armed forces under emergency regulations.

If any person fails to comply with any emergency regulation, he could become liable for rigorous imprisonment for a maximum period of five years.

PART 1 - SECTION (I) - GENERAL

Government Notifications

THE PUBLIC SECURITY ORDINANCE (CHAPTER 40)

REGULATIONS made by the President under section 5 of the Public Security Ordinance, (Chapter 40)

**CHANDRIKA BANDARANAIKE KUMARATUNGA,
President**

**Colombo,
May 3, 2000.**

Regulations

PART 1 - GENERAL

Short title.

1. These regulations may be cited as the Emergency (Miscellaneous Provisions and Powers) Regulation, No. 1 of 2000.

Interpretation of emergency regulation.

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

“Attorney-General” in relation to any emergency regulation, include the Solicitor-General, Additional Solicitor-General and Deputy Solicitor-General, or any Counsel for the State being a Counsel for the State authorised 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 regulation 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 or Government or branch thereof and which is specified in the Schedule hereto;

“explosive” has the same meaning as in the Explosives Act;

“gun” shall have the same meaning as in the Firearms Ordinance;

“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 expressions 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 or 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) Any order made by the President under paragraph (1) of this regulation declaring any service to be of public utility or to be essential for national security or to the

life of the community may be made generally for the whole of Sri Lanka or for any area or place specified in such order.

(5) 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 regulation under which such direction or order is given or made remains in force.

Powers of the President.

3. Save as otherwise expressly provided, the powers conferred by any emergency regulation shall be 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, duties and functions under emergency regulations.

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 authorised in that behalf by the President.

Competent Authority.

5. (1) The appointment of any person as a 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:

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 purposes of any regulation or for any specified area or place.

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

Service of notices.

6. Without prejudice to any special provisions contained in any emergency regulation a notice to 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.

Revocation and variation of order, &c.,

7. Any power conferred by any emergency regulation 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.

PART 2 - ACQUISITION AND REQUISITIONING OF PROPERTY AND REQUISITIONING OF PERSONAL SERVICES

Requisitioning and acquisition of property.

8. (1) Subject as hereinafter provided, a competent authority, if he is of opinion that it is necessary or expedient so to do in the interests of national security, the preservation of public order or for the maintenance of supplies and services essential to the life of the community, may requisition any article in Sri Lanka (including any vessel or aircraft which is owned by any person resident in Sri Lanka or which is in Sri Lanka or in any part of Sri Lanka) and may give such directions as may appear to the competent authority to be necessary or expedient in connection with the requisitioning.

(2) Where a competent authority requisitions any property under paragraph (1) of this regulation or any property (other than land) is in the possession or at the disposal of the competent authority by reason of the exercise of any power exercisable by virtue of the privileges and rights of the Republic or of any power conferred by section 7 of the Telecommunications Ordinance, or by section 7 of the Air Navigation Act, the competent authority may use or deal with, or authorise the use of or dealing with, the property 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 the life of the community, and may hold, or sell or otherwise dispose of, the property as if the competent authority were the owner thereof and as if the property were free from any mortgage, pledge, lien or other charge, and in a case where the property requisitioned is a vessel, vehicle, aircraft, excavator, crane, agricultural implement or agricultural machinery may acquire it by serving on the owner of the vessel, vehicle, aircraft, excavator, crane, agricultural implement or agricultural machinery, a notice stating that the competent authority has acquired it in pursuance of this regulation.

(3) Where the notice of acquisition is served under paragraph (2) of this regulation on the owner of any vessel, vehicle, aircraft, excavator, crane, agricultural implement or agricultural machinery, then, at the beginning of the day on which the notice is served -

(a) the vessel, vehicle, aircraft, excavator, crane, agricultural implement or agricultural machinery shall vest in the competent authority free from any mortgage, pledge, lien or other charges; and

(b) the period of the requisition thereof shall end.

(4) A competent authority, if he is of opinion that it is necessary for the effectual exercise of the powers conferred by paragraph (1) of this regulation so to do, may by order made as respects the whole of Sri Lanka or any specified area thereof -

(a) 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 article as may be described in the order, shall remove the article, or cause or permit it to be removed, from the premises until the removal of the article therefrom is permitted by such person or authority as may be specified in the order;

(b) require the owner or occupier of any premises in the said area, to send to such person or authority as may be specified in the order a written declaration stating or estimating whether or not, on such date as may be specified in the order any such article as aforesaid was or will be on the premises, and, if so, the number and quantity of such article which was or will be on the premises, on that date, according as the order may direct; or

(c) require persons who may from time to time own, or have in their possession or custody, or under their possession or custody, or under their control, any such vehicle within the said area as may be described in the order, to furnish in writing to such authority or person as may be specified in the order, such information relating to the vehicle and its parts (including spare parts) and accessories as may be so specified.

(5) The powers conferred by the preceding provisions of this regulation shall not be exercisable in relation to currency, gold, securities or negotiable instruments.

(6) Any reference in this regulation to article shall be construed as including a reference to substances, vehicles or animals.

(7) The Secretary to the Ministry of Defence may, if he is of opinion that it is necessary or expedient so to do in the interests of national security, or the preservation of public order or for the maintenance of supplies and services essential to the life of the community, requisition any immovable property in Sri Lanka and give such directions as appear to him to be necessary or expedient in connection with the requisitioning.

(8) with the property for such purpose and in such manner as Where any immovable property is requisitioned under paragraph (7) of this regulation, the Secretary to the Ministry of Defence may use or deal with, or authorise the use of or dealing he thinks expedient in the interests of national security or the preservation of public order or for the maintenance of supplies and services essential to the life of the community.

(9) Any police officer and any other officer of Government shall, upon being requested to do so, aid and assist any person in the exercises of the powers conferred on that person by the preceding provisions of this Regulation.

(10) For the purposes of this regulation "competent authority" -

- (a) in relation to the requisitioning of vehicles (including spare parts) which are required for the operation of passenger transport services and the requisitioning of vessels which are required in the interests of national security or the preservation of public order or for the maintenance of supplies and services essential to the life of the community, means a person or each person appointed as such, by name or by office, by the President;
- (b) in relation to the requisitioning of vehicles (including spare parts) which are required for the transport of food means a person or each person appointed as such, by name or by office, by the President;
- (c) in relation to the requisitioning of articles (including vehicles) which are required for the provisions of health and medical services, means, a person or each person appointed as such, by name or by office, by the President;
- (d) in relation to the requisitioning of vehicles which are required for the preservation of public order, means the Commander of Army, the Commander of the Navy, the Commander of the Air Force or the Inspector-General of Police;
- (e) in relation to the requisitioning of articles which are required for the purposes of agriculture, means a person or each person appointed as such, by name or by office, by the President; and
- (f) in relation to the requisitioning of any other article, means as person or each person appointed such, by name or by office, by the President; and

(11) For the purposes of this regulation the term "article" includes petroleum or any product or by product of petroleum.

Taking into possession of buildings and premises used in connection with an offence, &c.

8A. Where any building or premises is alleged to have been used in the commission of, or in connection with the commission of, any offence under these regulations or the Prevention of Terrorism Act, No. 48 of 1979, the Superintendent of Police of the area shall take possession of such building or premises and shall evict any person found therein or ordinarily resident therein and secure such premises from access to any unauthorised persons;

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.

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

Requisitioning of vehicles.

9. (1) If a competent authority is of opinion that it is necessary or expedient so to do in the interests of national security, the preservation of public order or for the maintenance of supplies and services essential to the 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.

(2) Where a competent authority requisitions any vehicle under paragraph (1) of this regulation, the competent authority may use or deal with or authorise 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 the life of the community.

(3) If a competent authority is of opinion that it is necessary for the effectual exercise of the powers conferred by paragraph (1) of this regulation so to do, he may, by order made as respects the whole of Sri Lanka or any specified area 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 of the vehicle therefrom is permitted by such person or authority as may be specified in the order.

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

(5) For the purposes of this regulation "competent authority" means the Commander of the Army, the Commander of the Navy, Commander of the Air Force, the Inspector-General of Police or the Government Agent of every Administrative District.

Requisitioning of Personal Services.

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, he shall be guilty of an offence and on conviction after trial before a Magistrate, in addition to any other penalty that the court shall impose for such offence -

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

Commissioner-General to co-ordinate essential services.

10A. (1) The President may, by order, appoint any person by name or by office, to be the Commissioner-General of Essential Services for the whole of Sri Lanka. It shall be the duty of the Commissioner-General of Essential Services 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 or Assistant Commissioner appointed under paragraph (2) any power, duty or function conferred or 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 -

- (a) conferred by regulation 8 on the Secretary to the Ministry of Defence or a competent authority appointed under that regulation;
- (b) conferred by regulation 9 on the competent authority for the purposes of that regulation;
- (c) conferred on any authority or officer to whom any power under regulation 10 has been delegated under that regulation.

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

- (a) any competent authority appointed under regulation 8;
- (b) any authority or officer, to whom any power has been delegated under regulation 10; and
- (c) any Co-ordinating Officer appointed under regulation 70, such directions as may be necessary for ensuring the maintenance of essential services, and it shall be the duty of such competent authority, officer or Co-ordinating Officer as the case may be, to comply with every such direction.

Commissioner of Civil Security

10B. (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 Commissioner 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 Commissioners or Competent Authority appointed under paragraph (2) any power, duty or function conferred or imposed on, or assigned to, such Commissioner, by or under these regulations.

(4) For the purpose of the performance of duties under this regulations, the Commissioner of Civil Security may exercise any power -

- (a) conferred by regulation 8 on the Secretary to the Ministry of Defence or a Competent Authority appointed under that regulation;
- (b) conferred on by regulation 9 on the Competent Authority for the purpose of that regulation;
- (c) 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 Competent Authority appointed under regulation 8;
- (b) any authority or officer, to whom any power has been delegated under regulation 10; and
- (c) a Co-ordinating Officer appointed under regulation 70, 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.

PART 3 - CONTROL OF MEETINGS, PROCESSIONS, PUBLICATIONS, FIREARMS AND RIGHT OF ENTRY, &c.

Restricted places.

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

(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 proceedings that may be taken against him, he may be removed therefrom by any police officer or any member of the Sri Lanka Army, Sri Lanka Navy or the Sri Lanka Air Force or by any other person authorised 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.

Prohibition of processions and meetings.

12. (1) The President may, by order, prohibit the holding of public processions or public meetings, or of such public processions or meetings as may be specified in that order in any area in Sri Lanka for such period as may be so specified, subject to such exemptions as may be made by that order or by any subsequent order made under this regulation.

(2) The President may give directions prohibiting the holding of any procession or meeting in any area in Sri Lanka, the holding of which would be in the opinion of the President likely to cause a disturbance of public order or promote disaffection.

(3) Any police officer may take such steps, and use such force as may be reasonably necessary for securing compliance with any order or directions made or given under this regulation.

13. (1) The President may, as respects any area in Sri Lanka, by order direct that, subject to such exemptions as may be made by that order or by any subsequent order made under this regulation, no person in that area shall, between such hours or during such period 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, or any other building or premises or place specified in the order, except under the authority of a written permit granted by such person as may be specified in the order.

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

Control of publications.

14. (1) A competent authority may take such measures and give such directions as he may consider necessary for preventing or restricting the publication in Sri Lanka or any specified area in Sri Lanka or the transmission from Sri Lanka to places outside Sri Lanka, of matters which would or might be prejudicial to the interests of national security or the preservation of public order or the maintenance of supplies and services essential to the life of the community or of matters inciting or encouraging persons to mutiny, riot or civil commotion, or to commit or breach of any law for the time being in force, which in the opinion of the competent authority may be prejudicial to the preservation of public order or the maintenance of supplies and services essential to the life of the community, and any directions issued under this paragraph may contain such incidental and

supplementary provisions as appear to the competent authority to be necessary or expedient, including provision for securing those documents, pictorial representations, photographs, cinematograph films, teleprinter, telegraph, television, transmission of matters relating to the operations of security forces including news reports, editorials, articles, letters to the editors, cartoons and comments, shall before publication be submitted or exhibited to the competent authority.

(2) (a) Every person who contravenes the provisions of any direction given under paragraph (1) of this regulation shall be guilty of an offence; and where any person is convicted of such an offence by reason of his having published a newspaper, the President may by order direct that during such period as may be specified in that order, that person shall not publish any newspaper in Sri Lanka.

(b) Without prejudice to the provisions of sub-paragraph (a), where there is a contravention of the provisions of any direction given under paragraph (1) of this regulation and such contravention is in respect of any publication in any newspaper, the competent authority may, after issuing one or more warnings as he may consider reasonable, order -

- (i) that no person shall print, publish or distribute or in any way be concerned in the printing, publication or distribution of such newspaper for such period as may be specified in the order; or
- (ii) that the printing press in which such newspaper was published shall, for such period as is specified in the order, not be used for any purposes whatsoever or for any such purpose as is specified in the order and any such order may authorise any person specified therein to take such steps (including the taking possession of any printing press with respect to which the order is made or of any premises in which it is contained or of any part of such printing press or premises) as appear to the persons so authorised to be necessary for securing compliance with the order.

(3) If a Competent Authority is of opinion that there is or has been or is likely to be in any newspaper, publication of matter which is in his opinion, calculated to be prejudicial to the interest of national security or the preservation of public order or the maintenance of supplies and services essential to the life of the community, or matter inciting or encouraging persons to mutiny, riot or civil commotion, he may -

- (a) by order direct that no person shall print, publish or distribute or in any way be concerned in the printing, publication or distribution of such newspapers for such period as may be specified in the order, and that the printing press in which such newspaper was printed shall for such period as is specified in the order, not be used for any purpose whatsoever or for any such purpose as is specified in the order, and authorise any person

specified therein to take such steps (including the taking possession of any printing press with respect to which the order is made or of any premises in which it is contained or of any part of such printing press or premises) as appear to the person so authorised to be necessary for securing compliance with the order, or

(b) take such measures or give such directions or make such order as is provided for in paragraph (1) and (2) of this regulation in respect of such newspaper.

(4) Where a Competent Authority has made an order under the provisions or paragraph (2)(b) or paragraph (3) of this regulation in relation to any newspaper specified by name in the order, such order shall apply not only to any newspaper published under that name, but also to any newspaper published under any other name if the publication thereof, is in any respect, in continuation of, (or in substitution for), the publication of the newspaper specified in the order.

(5) No person shall print, publish or distribute, or in any way be concerned in the printing, publication or distribution of any newspaper in respect of which an order has been made under the provisions of paragraph (2)(b) or paragraph (3) of this regulation.

(6) At any time after an order has been made under this regulation, the President may direct that the operation of the order be suspended, subject to such conditions as the President thinks fit and may at any time revoke such direction.

(7) If a Competent Authority is of opinion that any printing press or a printing press under the control of any person, has been or is likely to be used for the production of any document containing matter which is in his opinion calculated to prejudice the interests of national security or the preservation of public order or the maintenance of supplies and services essential to the life of the community or matter inciting or encouraging persons to mutiny, riot or civil commotion, the Competent Authority may by order direct that the printing press, or all or any of the printing presses under the control of that person, as the case may be, shall so long as the order is in force, not be used for any purpose whatsoever or for any such purpose as is specified in the order, and any such order may authorise any person specified therein to take such steps (including the taking possession of any printing press with respect to which the order is made or of any premises in which it is contained or any part of such printing press or premises) as appear to the person so authorised to be necessary for securing compliance with the order.

(8) For the purposes of paragraphs 2(b), (3) and (7) of this regulation, there shall be one or more Advisory Committees consisting of persons appointed by the President and any person dissatisfied with any order made under any of those paragraphs may make his objections in respect thereof to the appropriate Advisory Committee.

(9) It shall be the duty of the Competent Authority to secure, that in any case where an order is made under paragraph (2)(b), paragraph (3) or paragraph (7) of this regulation, the proprietor of the newspaper or the owner of the printing press affected thereby is informed that he may make representations to the President in writing with respect to that order and that he may, whether or not such representations are made, make objections to the appropriate Advisory Committee.

(10) Any meeting of an Advisory Committee held to consider such objections as aforesaid shall be presided over by a chairman nominated by the President, and it shall be the duty of the chairman to afford to the objector an opportunity of making representations in person in support of his objections.

(11) The report of an Advisory Committee upon any such objections as aforesaid shall be submitted to the President who may after consideration thereof, revoke or vary the order to which the objections relate.

(12) Where any newspaper is printed, published or distributed in contravention of any provisions of this regulation, or of any condition attached to a direction given under paragraph (6) of this regulation, the proprietor, the manager, the editor and the publisher of that newspaper shall, whether or not the direction is revoked in consequence of the contravention be severally guilty of an offence.

(13) In this regulation -

- (a) "cinematograph film" includes a sound track and any other article on which sounds have been recorded for the purpose of their being reproduced in connection with the exhibition of such a film.
- (b) "publication" means, in relation to a cinematograph film, the exhibition of the film to the public and includes the mechanical or electrical productions of any sounds in connection with the exhibition of the film as aforesaid;
- (c) "newspaper" includes any journal, magazine, pamphlet or other publication; and
- (d) "printing press" includes any machinery, apparatus or plant capable of being used for printing, lithography, photography, or other mode of representing or reproducing words in a visible form, or any type or other article belonging to such machinery, apparatus or plant.

Advisory Committees.

14A. Every Divisional Secretary of a Divisional Secretary's Division shall appoint for that Divisional Secretary's Division, a committee consisting of public servants, office bearers of trade unions, and other recognised 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 that Divisional Secretary's Division.

Guns and explosives.

15. (1) The Inspector-General of Police may, in the interests of national security, and with a view to ensuring the maintenance of public order, direct that any gun or explosive in the possession of any person shall be removed and kept in such custody as he may determine.

(2) Any person specified in that behalf by name or by office in any direction issued by the Inspector-General of Police under paragraph (1) of this regulation may carry out such direction. For the purpose of carrying out such direction, such person may be assisted by any other person or persons and may enter any premises or place and open or break open any outer or inner door or window for the purpose of entering such premises or place and any receptacle or repository wherein any gun or explosive is suspected by such person to be kept.

(3) No person shall conceal any gun or explosive to which a direction issued by the Inspector-General of Police under paragraph (1) of this regulation relates or do any other act with a view to preventing or hindering the carrying out of such direction.

PART 4 - SUPERVISION, SEARCH, ARREST AND DETENTION

Order of restriction.

16. (1) Where the Secretary to the Ministry of Defence is of opinion with respect to any particular person that, with a view to preventing that person -

- (a) from acting in any manner prejudicial to the national security or to the maintenance of public order, or to the maintenance of essential services; or
- (b) from acting in any manner contrary to any of the provisions of regulation 26 or sub-paragraph (a) or sub-paragraph (b) of paragraph (2) of regulation 41 of paragraph (3) of regulation 68 of these regulations;

it is necessary so to do, the Secretary may make an order for all or any of the following purposes:-

- (i) for securing that, except in so far as he may be permitted by the order, or by such authority or person as may be specified in that order, that person shall not be in any such area in Sri Lanka as may be so specified;
- (ii) for requiring that person to modify his movements in such manner, at such times, and to such authority or person as may be specified in that order;
- (iii) for prohibiting that person from leaving his residence without the permission of such authority or person as may be specified in that order, and prohibiting any other person from entering or leaving such residence except in such circumstances as may be specified in that order or be determined by such authority or person as may be specified in that order;
- (iv) for requiring that person, if he is in possession of a passport or of travel documents or tickets for transportation for a journey outside Sri Lanka, to surrender such passport or travel documents or tickets, as the case may be, to such authority or person as may be specified in that order;
- (v) for prohibiting or restricting the possession or use by that person of any specified articles; and
- (vi) for imposing upon that person such restrictions as may be specified in that order in respect of his employment or business, in respect of his association or communication with other persons and in respect of his activities, in relation to the dissemination of news or the propagation of opinions.

(2) If any person is in any area in contravention of an order made under subparagraph (1) of paragraph (1) of this regulation or fails to leave any area in accordance with the requirements of such an order, then, without prejudice to any proceedings that may be taken against him, he may be removed from that area by any police officer or by any other person authorised in that behalf by the Secretary to the Ministry of Defence.

Detention of Persons.

17. (1) Where the Secretary to the Ministry of Defence is of opinion with respect to any person that, with a view to preventing such person -

- (a) from acting in any manner prejudicial to the national security or to the maintenance of public order, or to the maintenance of essential services; or

- (b) from acting in any manner contrary to any of the provisions of sub-paragraph (a) or sub-paragraph (b) of paragraph 2) of regulation 41 or regulation 26 of these regulations,

it is necessary so to do, the Secretary may make order that such person be taken into custody and detained in custody:

Provided however that no person shall be detained upon an order under this paragraph for a period exceeding one year.

(2) Any police officer or member of the Sri Lanka Army, Sri Lanka Navy or Sri Lanka Air Force shall have the right to carry into effect any order made under paragraph (1) of this regulation and to use all such force as may be necessary for the purpose.

(3) Any person detained in pursuance of an order made under paragraph (1) of this regulation shall be deemed to be in lawful custody and shall be detained in such place as may be authorised by the Inspector-General of Police and in accordance with instructions issued by him, and where such person is so detained in a prison established under the Prisons Ordinance -

- (a) all the provisions of that Ordinance other than the provisions of Part IX of that Ordinance, and
- (b) all the rules made under that Ordinance other than the rules which relate to visits to, and the correspondence of, prisoners,

shall apply to such person as though he were a civil prisoner within the meaning of that Ordinance:

Provided however, that the Inspector-General of Police may, where he considers it expedient so to do -

- (a) by order direct that any provisions of the said Ordinance or any rules made thereunder which under the preceding provisions of this paragraph apply to such person, shall not apply or shall apply subject to such amendments or modifications as may be specified in such order; and
- (b) permit visits to, and the correspondence of, such person in such manner and at such time and place, as the Inspector-General of Police may from time to time direct.

(4) For the purpose of this regulation, there shall be one or more Advisory Committees consisting of persons appointed by the President, and any person aggrieved

by an order made against him under this regulation may make his objections to such a Committee.

(5) It shall be the duty of the Secretary to the Ministry of Defence to secure that any person against whom an order is made under this regulation shall be afforded the earliest practicable opportunity of making to the President representations in writing with respect thereto and that he shall be informed of his right whether or not such representations are made to make his objections to such an Advisory Committee as aforesaid. Rules may be made by the President in relation to the hearing and disposal of such objections.

(6) Any meeting of an Advisory Committee held to consider such objections as aforesaid shall be presided over by a chairman nominated by the President and it shall be the duty of the chairman to inform the objector of the grounds on which the order under this regulation has been made against him and to furnish him with such particulars as are in the opinion of the chairman sufficient to enable him to present his case.

(7) Where an Advisory Committee consists of three persons, the quorum for any meeting thereof shall be two, and where an Advisory Committee consists of more than three persons, the quorum shall be three.

(8) The report of an Advisory Committee with respect to any such objections as aforesaid shall be submitted to the Secretary to the Ministry of Defence who may, after consideration thereof, revoke the order to which the objections relate.

(9) Where the Secretary to the Ministry of Defence certifies in writing that any person in respect of whom an order under paragraph (1) of this regulation is made is suspected by him to be or have been a member of an organisation, prescribed under regulation 68 of these regulations, the provisions of paragraphs (4), (5), (6), (7) and (8) of this regulation shall not apply in regard to that person.

(10) An order under paragraph (1) of this regulation shall not be called in question in any court on any ground whatsoever.

Power of search, seizure, arrest and detention.

18. (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 authorised 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 ground for suspecting to be concerned in, or to be committing, or to have committed, an offence under any emergency regulation, and may search, seize, remove and detain any vehicle, vessel, article, substance or thing whatsoever used in, or in connection with, the commission of the offence.

(2) Any person detained 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 searched, or the person who is searched, in regard to any matter connected with or relating to the purpose of 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 and 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 forces, to the Commanding Officer of the area within which the arrest is made, within 24 hours of the arrest.

(9) Where any person is taken into custody under the provisions of this regulation it shall be the duty of the arresting officer to issue to the spouse, father, mother, or any other close relative a document in such form as is specified by the Secretary, acknowledging the fact of arrest. It shall be the duty of the holder of such document to return the same to, or produce the same before, the appropriate authority when such arrested person is released from custody:

Provided that where any person is taken into custody and it is not possible to issue a document as set out above, it shall be the duty of the arresting officer if such officer is a police officer, to make an entry in the information book, giving reasons why it is not possible to issue such documents, and if the arresting officer is a member of the armed forces, to report to the officer in charge of the police station the reasons why it is not

possible to issue such document and the officer in charge shall make an entry of such fact along with the reasons therefore in the information book.

(10) Where any person without reasonable cause falls to issue a document acknowledging the fact of arrest as required by paragraph (9) or wilfully omits to make such entry as is referred to in the proviso to that paragraph or to report the fact that the document was not issued and the reasons therefor, he shall be guilty of an offence and upon conviction after trial before the High Court be liable to a term of imprisonment extending to two years and a fine.

(11) 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.

Special provisions regarding persons arrested and detained under regulation 18.

19. (1) The provisions of sections 36, 37 and 38 of the Code of Criminal Procedure Act, No. 15 of 1979, shall not apply in relation to persons arrested under regulation 18:

Provided that where any person has been arrested and detained under the provisions of regulation 18 of these regulations, such person shall be produced before any Magistrate within a reasonable time, having regard to the circumstances of each case, and in any event, not later than thirty days after such arrest.

The production of any person in conformity with the provisions of these regulations shall not effect the detention of such person under paragraph (2).

(2) Any person detained in pursuance of provisions of regulation 18 in a place authorised by the Inspector-General of Police may be so detained for a period not exceeding ninety days reckoned from the date of his arrest under that regulation, and shall at the end of that period be released by the officer in charge of that place unless such person has been produced by such officer before the expiry of that period before a court of competent jurisdiction; and where such person is so detained in a place established under the Prisons Ordinance -

(a) all the provisions of that Ordinance other than the provisions of Part IX of that Ordinance, and

(b) all the rules made under that Ordinance other than the rules which relate to visits to and the correspondence of prisoners,

shall apply to such person as though he was a civil prisoner within the meaning of that Ordinance:

Provided, however, that the Inspector-General of Police may, where he considers it expedient so to do –

- (a) by order that any provisions of the said Ordinance or any rules made thereunder which under the preceding provisions of this paragraph apply to such person, shall not apply or shall apply subject to such amendments or modifications as may be specified in such order; and
- (c) permit visits to and correspondence of such person in such manner and as such time and place, as the Inspector-General of Police may from time to time direct.

(3) Where a person who has been arrested and detained in pursuance of the provisions of regulation 18 is produced by the officer referred to in paragraph (2) before a court of competent jurisdiction, such court shall order that the such person be detained in the custody of the Fiscal in a prison established under the Prisons Ordinance.

(4) In this regulation Inspector-General of Police includes any Deputy Inspector-General of Police, or any Superintendent of Police, or any Assistant Superintendent of Police.

Persons subject to Rehabilitation.

20A. (1) The Minister in charge of the subject of Defence or the Secretary may make a Rehabilitation Order to the effect that any person who has been detained under the provisions of regulation 17 or 19 of these regulations, or under the provisions of section 9 of Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979, as the case may be, in the interest of the welfare of such persons, be subject to rehabilitation for such period as is specified in the Order under the supervision of the Commissioner-General of Rehabilitation, appointed under regulation 21 of these regulations:

Provided that upon the making of a Rehabilitation Order under this regulation the Order made under regulations 17 or 19, and the Order made under section 9 of the Prevention of Terrorism (Temporary Provisions) Act. No. 48 of 1979, shall be deemed to be revoked.

(2) A person subject to rehabilitation as aforesaid shall be released from the custody of the Commissioner-General of Rehabilitation upon the revocation of the rehabilitation Order.

(3) The Minister or the Secretary may prior to making an Order under paragraph (1), or Paragraph (2) consult the Advisory Board appointed under section 12 of the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 or the Advisory

Committee appointed under regulation 17(4) of these regulations, as the case may be, or any other Administrative Board appointed by the Minister or Secretary for this purpose.

Commissioner-General of Rehabilitation.

20B. (1) The President may by order appoint by name or by office any person, to be the Commissioner-General of Rehabilitation for any area or areas in Sri Lanka in respect of which a Proclamation under section 2 of the Public Security Ordinance is applicable. It shall be the duty of the Commissioner-General of Rehabilitation to execute and co-ordinate all activities relating to rehabilitation.

(2) The Commissioner-General of Rehabilitation, shall subject to the direction and control of the Committee of Secretaries appointed for the purpose of monitoring rehabilitation programmes, exercise, perform and discharge all or any of the following powers, duties and functions in order to –

- (a) establish and maintain, Youth Development and Training Centres for the rehabilitation of youth assigned to such Centres;
- (b) provide vocational, technical and other training to youth at such Youth Development and Training Centres;
- (c) certify the levels of training received by youth at such Youth Development and Training centres;
- (d) made recommendations, in consultation with the Secretary to the Ministry of the Minister in charge of the subject of Youth Affairs and Sports, to the Secretary regarding the release of youth who have completed their training;
- (e) arrange financial assistance for youth who have completed their training at such Youth Development and Training Centres, so as to enable them to commence business enterprises, utilising the training they have received; and
- (f) provide sports and recreational facilities and cultural programmes for the benefit of the youth at the Youth Development and Training Centres.

(3) The Commissioner-General of Rehabilitation may appoint by name or by office any person to be Deputy Commissioner, or Assistant Commissioner as may be necessary for the performance of his duties under these regulations in consultation with the Minister in-Charge of the subject of Youth Affairs and Sports.

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

Custody of persons who surrender.

20C (1) Any person who surrenders (hereinafter referred to as the "surrendee") to any police officer, or any member of the armed forces, or to any public officer or any other person or body of persons authorised by the President by order, in connection with any offence under the Explosives Act, the Offensive Weapons Act, No. 18 of 1966, the Firearms Ordinance, the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 or under Chapter VI, Chapter VII or Chapter VIII of the Penal Code or under any emergency regulation, or through fear of terrorist activities shall be required to give a written statement to the officer or person authorised in that behalf to the effect that he is surrendering voluntarily.

(2) There shall be approved from time to time by the Secretary to the Ministry of the Minister in-charge of the subject of Defence, Centres to be known as "Protective Accommodation and Rehabilitation Centres" (hereinafter referred to as "the Centre") for the purpose of receiving and keeping surrendees.

(3) The officer or person to whom a person surrenders in terms of paragraph (1), shall within ten (10) days of such surrender take steps to hand over the surrendee to the Commissioner-General of Rehabilitation who shall assign such surrendee to a Centre.

(4) The Officer or any other person to whom a person surrenders in terms of paragraph (1) shall inform the Secretary to the Ministry of the Minister-in-Charge of the subject of Defence, within a period of ten days of the surrender and handing over of the surrendee to the Commissioner-General of Rehabilitation, that a voluntary surrender has been made and such person was handed over as required in paragraph (3) above.

(5) On being assigned to a Centre the Commissioner-General of Rehabilitation shall endeavour to provide the surrendee with an appropriate vocational, technical or other training during his stay at the centre. He shall within a period of two months from the date of taking over of such surrendee report to the Secretary to the Ministry of the Minister in Charge of the subject of Defence indicating the nature of the rehabilitation being carried out in respect of the surrendee.

(6) When the Secretary to the Minister in Charge of the subject of Defence receives the report from the officer or person to whom a person surrenders in terms of paragraph (4), he shall make an order authorising the Commissioner-General of Rehabilitation to keep such surrendee in a Centre and to rehabilitate him for a period not exceeding twelve months in the first instance. Such period shall be computed from the

date of handing over of such surrendee by the officer or person as the case may be, to the Commissioner-General of Rehabilitation.

(7) A surrendee assigned to a centre may with the permission of the Officer-in-charge of the Centre be entitled to meet his parents, or relations or guardian as the case may be, once in every two weeks.

(8) The Commissioner-General of Rehabilitation shall prior to the expiration of the period of rehabilitation report to the Secretary to the Ministry of the Minister in Charge of the subject of Defence on the suitability of releasing the surrendee or whether he need to be rehabilitated for a further period.

(9) At the end of the period of twelve months the Secretary to the Ministry of the Minister in charge of the subject of Defence, after perusal of the report submitted by the Commissioner-General of Rehabilitation, may -

(a) order the release of such person; or

(b) extend the period of rehabilitation for periods of three months at a time, so however that the aggregate period of such extensions shall not exceed twelve months. Such extensions shall be made on the recommendation of the Commissioner-General of Rehabilitation and the Administrative Board appointed by the Secretary to the Ministry of the Minister in charge of the subject of Defence in terms of regulation 20(3).

(10) At the end of the extended period of rehabilitation the surrendee shall be released.

(11) The Superintendent of Police of the Division in-charge of the place where the person surrendered may, after the expiration of three months from the date of his being handed over to the Centre, with prior written approval of The Secretary to the Ministry of the Minister in charge of the subject of Defence, investigate the involvement of any surrendee who is suspected of being connected with, or concerned in the commission of an offence set out in paragraph (1).

(12) (a) Where at the end of any trial a surrendee is found guilty of the offence in connection with which he is charged or indicted, the Court may in determining the sentence to be imposed on him take into consideration the fact of his surrender.

(b) The Court may where appropriate, order that the accused be rehabilitated for a further period as may be determined by Court, at a Centre.

(13) A surrendee subject to rehabilitation by order of court may, if he acts in a manner prejudicial to his rehabilitation programme or the interest of other surrendees at

the Centre on production by the Commissioner-General of Rehabilitation before the court which sentenced him, be sentenced to imprisonment in lieu of such further rehabilitation, after such summary inquiry as the Court thinks fit.

Householder to give lists of inmates when required.

21A. Every householder within any area shall furnish the Officer-in-Charge of the Police Station of his area when required so to do by a Police Officer not below the rank of Assistant Superintendent of Police, with a list of all the inmates of his house, distinguishing the members of his family from the servants or other residents therein; and he shall also if it shall be so directed in the order of the aforesaid Police Officer, report any increase or diminution or change in the same; and he shall not, having received such notice under such order, harbour a stranger without giving such notice thereof to the Officer-in-Charge of the Police Station of his area, and every person failing in any duty imposed upon him by this regulation shall be guilty of an offence.

Rights of members of the Armed Forces to carry out any lawful orders in relation to prisons and prisoners.

22. Every member of the Sri Lanka Army, the Sri Lanka Navy or the Sri Lanka Air Force, who is for the time being engaged in escorting any prisoner or in guarding any prison or other place where prisoners are confined or are employed in work, or in assisting in the quelling of any disturbance or violence on the part of any prisoners, or in recapturing any escaped prisoner or in enforcing or assisting in the enforcement of any lawful order, shall be deemed to have all the powers and rights vested in a police officer by virtue of section 77(5) of the Prisons Ordinance and the rules relating thereto made under that Ordinance.

PART 5 - OFFENCES AND PENALTIES

Conspiracy to overthrow Government &c.

2. Whoever

- (a) conspires to overthrow or attempts or prepares to overthrow, or does any act, or conspires to do, or attempts or prepares to do, any act, calculated to overthrow, or with the object or intention of overthrowing, or as a means of overthrowing, otherwise than by lawful means, the Government of Sri Lanka by law established; or
- (b) conspires to murder or attempts to murder, or wrongfully confines or conspires or attempts to prepare to wrongfully confine, the President, or a Member of Parliament, member of the Police or a member of the Armed

Forces, or a public officer with the intention of inducing or compelling the President, such Member of Parliament, member of the Police or member of the Armed Forces or public officer to exercise or refrain from exercising in any manner any of the lawful powers of the President, such Member of Parliament, member of the Police, member of the Armed forces or public officer; or

- (c) in any manner overawes, influences, or coerces, or prepares, conspires, or attempts to overawe, influence, or coerce, any person with the intention of inducing or compelling the Government of Sri Lanka, the President, a Member of Parliament, a member of the Police, a member of the Armed Forces or a public officer, to exercise or refrain from exercising in any manner, the lawful powers of the Government of Sri Lanka, the President, such Member of Parliament, member of the Police, member of the Armed Forces or public officer,

shall be guilty of an offence notwithstanding anything in any other law, and shall upon conviction before the High Court be punished with death or rigorous imprisonment for a period not exceeding twenty years and shall forfeit all his property.

Offences against movable or immovable property, &c.

24. (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 other person with fire or any combustible matter or any explosive or corrosive substance or with any missile, weapon or instrument of any description; or
- (c) commits theft of any article in any premises which have been left vacant or unprotected or which have been damaged or destroyed; or
- (d) 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
- (e) is a member of an unlawful assembly as defined in Section 138 of the Penal Code the object of which assembly is to do any act referred to in sub-paragraph (a) or sub-paragraph (b) or sub-paragraph (c) or sub-paragraph (d); or

- (f) 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) or sub-paragraph (d),

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 for life.

(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 24 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 authorise 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 48 of these regulations.

Prevention of disaffection.

25. No person shall -

- (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 so engaged, as the case may be; or
- (c) with intent to contravene, or to aid, abet, or counsel a contravention of sub-paragraph (a) or sub-paragraph (b), have in his possession or under his control, any document of such a nature that the dissemination of copies thereof among any such persons as aforesaid would constitute such a contravention.

Sedition and incitement.

26. Any person who by words, whether spoken or written, or by signs or visible representations or by conduct or by any other act -

- (a) brings or attempts to bring the President or the Government into hatred or contempt, or excites, or incites or attempts to excite or incite feelings of disaffection to, or hatred or contempt of the President or the Government; or
- (b) brings or attempts to bring the Constitution or the administration of justice into hatred or contempt or excites or incites feelings of disaffection to, or hatred or contempt of the Constitution or the administration of justice; or
- (c) excites or incites or attempts to excite the inhabitants of Sri Lanka or any section, class or group of them to procure otherwise than by lawful means, the alteration of any matter by law established; or
- (d) raises or creates or attempts to raise or create discontent or disaffection among the inhabitants of Sri Lanka or any section, class or group of them; or
- (e) promotes or fosters or attempts to promote or foster feelings of hatred or hostility between different sections, classes or groups of the inhabitants of Sri Lanka; or
- (f) excites or incites or attempts to excite or incite the inhabitants of Sri Lanka, or any section, class or group of them to the use of any form of physical force or violence, breaches of the peace, disobedience of the law or obstruction of the execution of the law for the purpose thereby of inducing or compelling the Parliament or the government to alter any matter by law established or to do or forbear from doing any act or thing; or
- (g) excites or attempts to excite or incite the inhabitants of Sri Lanka or any section, class or group of them to do or omit to do any act or thing which constitutes a breach of any emergency regulation,

shall be guilty of an offence and punishable with rigorous imprisonment which shall extend to at least three months but shall not extend to more than twenty years and may also be liable to a fine.

Display of slogans, &c.

27. Whoever by words whether spoken or written or by signs or by visible representations or by conduct or by any other act, advocates, urges or advises directly or indirectly the necessity, duty or desirability of overthrowing or overpowering, otherwise than by lawful means, the Government of Sri Lanka by law established shall be guilty of an offence.

Distribution of leaflets, &c.

28. No person shall affix in any place visible to the public or 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.

Communication or spreading of rumours and false statements.

29. 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.

Printing or publishing certain types of documents.

30. Any person who prints or publishes any document recording or giving information or commenting about, or any pictorial representation, photograph or cinematograph film of any of the following matters:-

- (a) the activities of any organisation proscribed under these regulations;
- (b) any matter relating to the investigations carried on by the Government into the terrorist movement;
- (c) the disposition, condition, movement or operations of the Police, Sri Lanka Army, Sri Lanka Navy and Sri Lanka Air Force;
- (d) any matter pertaining to the defence and the security of Sri Lanka;
- (e) any matter likely, directly or indirectly to create communal tension,

shall be guilty of an offence.

Prohibition on taking Photographs.

30A. Any person who without the written authorisation of the Secretary to the Ministry of Defence previously obtained, takes any photographs whatsoever -

(a) of any building ship or aircraft vested in or being used by any police officer or any member of the Sri Lanka Army, the Sri Lanka Navy, or the Sri Lanka Air Force; or

(b) in the vicinity of any such building, ship or aircraft,

shall be guilty of an offence.

False statements.

31. If any person -

(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,

he shall be guilty of an offence.

Possession of Maps, &c.

32. Whoever without lawful excuse, the proof whereof shall lie on such person, procures or has in his custody or control, possesses or attempts to procure or possess, any map, plan, sketch, drawing or outline, or other particulars, pertaining or relating to any office, organisation, institution or establishment of the Government, including a public corporation, or the deployment or disposition of members of the Police or the Armed Services, transport services or any arms or ammunition belonging to the Police or the Armed Services, shall be guilty of an offence.

Possession of subversive literature.

33. Whoever without lawful authority or reasonable excuse, the proof whereof shall lie on such person, has in his possession, custody or control, any book, document or

paper containing any writing or representation which is likely to be prejudicial to the interests of national security or to the preservation of public order or which is likely to arouse, encourage or promote feelings of hatred or contempt to the Government or which is likely to incite any person directly or indirectly to take any step towards the overthrowing of the Government, shall be guilty of an offence.

Collection of arms, &c.

34. Whoever collects, or has unauthorised possession of arms, ammunition, explosives or weapons or other dangerous articles or substances or prepares, trains, or attempts to train any person in the manufacture or use of such arms, ammunition, explosives, weapons or dangerous articles or substances shall be guilty of an offence and shall upon conviction be liable to rigorous imprisonment for a term not less than ten years.

Wearing of apparel uniforms.

35. Whoever not being a member of the Armed Forces, or the Police Force wears or has in his possession the custody or control of any garb, dress, uniform, identity card, token or other symbol resembling in any manner or in any detail, the garb, dress, uniform, identity card, token or other symbol worn or used by any member of the Armed Forces or the Police Force shall be guilty of an offence.

Explosives, guns, offensive weapons and offensive resembling substances.

36. (1) Any person who, without lawful authority or reasonable excuse, the proof whereof shall lie on such person, transports, causes the transport of, or has in his possession or under his control, any gun, explosive, offensive weapon or offensive substance shall be guilty of an offence.

(2) A police officer, a member of the Sri Lanka Army of a rank not below that of Corporal, a member of the Sri Lanka Navy of a rank not below that of Leading Seaman, or a member of the Sri Lanka Air Force of a rank not below that of Corporal, may remove any gun, explosive, offensive weapon or offensive substance which is in the possession or under the control of any person whom he has reasonable cause to believe to be committing an offence under this regulation.

(3) (a) Where any person is convicted of an offence under this regulation -

(i) all property movable or immovable of such person; and

(ii) any vehicle or vessel which has been used in connection with the commission of the offence, shall by virtue on such conviction be deemed to be forfeited to the Republic free of encumbrances.

(b) Any property forfeited to the State under sub-paragraph (a) shall -

- (a) if no appeal has been preferred to the Court of Appeal against the relevant conviction, vest absolutely in the State with effect from the date on which the period prescribed for preferring an appeal against such conviction expires;
- (b) if an appeal has been preferred to the Court of Appeal against the relevant conviction, vest absolutely in the State with effect from the date on which such conviction is affirmed in appeal.

In this paragraph, "relevant conviction" means the conviction in consequence of which any property is forfeited to the State under sub-paragraph (a).

(4) Any person who commits an offence under this regulation shall upon conviction be punished with death or with imprisonment of either description for life.

(5) In this regulation -

"Offensive substance" means any inflammable, corrosive or volatile substance and "offensive weapon" means a 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 article capable of being used for causing injury to person or property and includes anything or substance which could form a part of such bomb, grenade, device or contrivance.

Throwing missiles.

37. No person shall throw anything 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.

Pointing of gun.

38. No person shall, without lawful excuse, point at any other person any gun whether loaded or unloaded.

Prevention of intimidation, &c.

39. (1) No person shall, in any area in Sri Lanka specified by the President by order, 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 therefrom, or to lead to a breach of the peace.

(2) In this regulation, 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.

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

Maintenance, obstruction, essential services.

41. (1) Where any service is declared by order made by the President under regulation 2 to be an essential service, any person who, on or after May 3rd, 2000 was engaged or employed in any work in connection with that service -

- (a) fails or refuses 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 fails or refuses to work or walks out or keeps away from work without working during the full period or any part of the normal working day as is required of him in accordance with the terms and conditions of his employment in such service; or
- (b) fails or refuses, after the lapse of one day from the date of such order, to perform such work as he may directed, by his employer or a person acting under the authority of his employer or perform; or
- (c) being a person engaged or employed in a specified service, fails or refuses 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 within such periods as may be specified by such employer or such person for the performance of such work (whether such time 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 organised 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 conditions of any contract 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 specified service by the President, by order published in the *Gazette*, 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.

(2) Where any service is declared by order made by the President to be an essential service -

(a) any person who, in any manner whatsoever -

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

(ii) impedes, obstructs or prevents any other person employed in or in connection with the carrying on of that service to refrain from, attending at his place of work, or

(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, or

(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; or

(v) compels, incites, induces or encourages any other person employed in or in connection 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

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

(b) 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 sub-paragraph (a) of this paragraph (whether or not such other person commits in consequence of any act so specified.)

(2A) Where the President is of the opinion that the members of any organization are committing, aiding and abetting the commission of any act referred to in paragraph (2) of this regulation, she may Order published in the Gazette declare such organization to be a proscribed organization;

(2B) Where an organization is declared to be a proscribed organization by an Order made under paragraph (2A) -

(a) the provisions of paragraphs (2), (3), (3A), (4) and (5) of regulation 68 shall, *mutatis mutandis*, apply to, and in relation to, such organization;

(b) every person who is a member of such organization on or after the date of such Order shall -

(i) If such person is the holder of any office under the Government or in any Public Corporation, be deemed, for all purposes, to have terminated or vacated such office, with effect from the date of such order;

(ii) in addition, be guilty of an offence under these regulations.

(c) any bank in which such organization maintains an account shall not permit any person to operate such account.

(2C) Every person who is deemed to have terminated or vacated his employment by reason of the operation of the provision of paragraph (1) of this regulation shall vacate any quarters provided to him by, or on behalf of, the Government within three days of such termination or vacation. Any such 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 purposes of residence and includes any land or premises in which such building, room or other accommodation is situated.

(3) 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 be 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.

Obstruction or damage to roads, railways, &c.

42. 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 road transport vehicle.

Interference &c., with railway, postal and road transport services.

43. (1) No person shall do all or any of the following acts:-

- (a) travel on any railway maintained by the Government without having a pass authorising him to do so or having first paid his fare and obtained ticket; or
- (b) obstruct, or interfere with, in any manner whatsoever, the working of that railway; or
- (c) obstruct, or interfere with, in any manner whatsoever, the postal services maintained by the Government; or
- (d) travel on any public road transport vehicle without first having paid his fare and obtained a ticket; or
- (e) obstruct, or interfere with, in any manner whatsoever, the working of any such vehicle.

(2) A person shall be deemed not to have contravened the provision of sub-paragraph (a) or sub-paragraph (d) of paragraph (1) of this regulation by reason only of the fact that he travelled on a railway maintained by the Government without a pass authorising him to do so or without having first paid his fare and obtained a ticket, or that he travelled on a public road transport vehicle without first having paid his fare and obtained a ticket, if, but only if, he was entitled to do so by virtue of his employment or otherwise.

Offences relating to telegraph services, &c.

44. (1) Whoever does any act or prepares, conspires or attempts to do any act or abets in any manner the doing of an act intended, calculated or designed to interfere, impair, damage, disrupt, or disorganise or tamper with, the postal, telegraph, telecommunication or the broadcasting services shall be guilty of an offence.

(2) Whoever in any premises used for the provision of the Government Telephone Service has, without lawful authority or reasonable excuse the proof whereof shall lie on such person, in his possession, custody, or control any earphone, microphone, amplifier, or other instrument or apparatus capable of converting audio frequencies into audible

sound frequencies or which could record any telephone conversation, shall be guilty of an offence.

Prevention of death of threats.

44A. (1)(a) Any person who -

(a) without lawful authority, has in his possession, or prints, publishes or distributes, any document containing any statement or pictorial representation-

(i) which constitutes a threat of death or bodily harm to any other person; or

(ii) which is reasonably capable of being construed as a threat of death or bodily harm to any other person,

if such other person engages in any lawful occupation, profession, trade, business or enterprise or associates with any other person or does, or refrains from doing any other act or thing;

(b) by threat of death or bodily harm, whether by words, written or spoken or by signs or by conduct, endeavours to induce any other person, to resign from any political party or trade union of which such other person is a member, or to resign from any office held by such other person in such political party or trade union or to resign from any office held by such other person or to join any political party; or

(c) by threat of death or bodily harm, whether by words, written or spoken, or by signs or by conduct, endeavours to induce any public officer or person engaged in the performance of any essential service, to do, or omit to do, anything in breach of his duty as a public officer or a person so engaged, as the case may be,

shall be guilty of an offence under these regulations, and shall, on conviction after trial before the High Court, be punished with death.

Proof that a person was found in possession of a document containing any such threat as is referred to in paragraph (b) or paragraph (c) shall be *prima facie* proof that such person has attempted to commit, or has done an act preparatory to the commission of, the offence described in that paragraph.

(2) The trial for an offence under this regulation shall be notwithstanding anything to the contrary in these regulations be commenced on the filing of report in the High Court, by the Inspector-General of Police, to the effect that such offence has been

committed and upon the production of the accused in court. Every such trial shall be held by a Judge of the High Court sitting without a jury.

(3) The provisions of paragraphs (a) and (b) of subsection (6) of Section 450 of the Code of Criminal Procedure Act, No. 15 of 1979 shall, *mutatis mutandis*, apply to the trial of offences under these regulations.

(4) A confession or other incriminatory statement to whomsoever and in whatsoever circumstances made by any person who is alleged to have, or is suspected of having, committed an offence under these regulations may, at any trial for such offence, be proved against such person, so however, that if it is sought by or on behalf of such person to reduce or minimise the weight that shall be attached to such confession or incriminatory statement, the burden of proving the facts necessary to support such contention shall be on such person.

(5) Notwithstanding anything in any other written law, no court shall have power or jurisdiction to make any order setting aside, or varying an order made in the course of a trial for an offence under these regulations or staying, suspending or prohibiting the holding of any such trial.

Attempts to commit offences, &c.

45. 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 offenders.

46. 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.

47. 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 the commission of the offence.

Penalties.

48. (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 regulation, he shall be guilty of an offence, and subject to any special provisions contained in such regulation, shall on conviction after trial before the 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 6 - INVESTIGATIONS, TRIALS &c.

Duty to disclose information.

49. (a) Whoever becomes aware of an intention of an attempt or a preparation to commit, or the commission of, an offence under any emergency regulation shall forthwith give information thereof to the nearest Grama Sevaka Niladhari or to the officer-in-charge of the nearest police station;

(b) Any person who willfully fails or refuses to give the information referred to in the paragraph (a) shall be guilty of an offence;

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

Power of investigating police officers.

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

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

Provided however, that such a statement shall be signed by both the person making it as well as by the police officer recording it;

And provided further that in case of a person refusing to sign such a statement, 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 with, any such offence; and
- (e) inspect and take 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 or officer-in-charge of such bank or post office, as the case may be, shall be furnished with prior written information by the police officer not below the rank of Assistant Superintendent that such document is required for the purpose of such investigation.

Documents of suspected persons in possession.

51. 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 proceeding 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.

The right make inquiries and the duty to give assistance.

52. (a) 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 -

- (i) 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
- (ii) 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.

(b) It shall be the duty of every person to give all assistance to a police officer or other person duly authorized, investigating into an offence under any emergency regulation; and every person questioned under sub-paragraph (i) of the paragraph (a) of this regulation shall truthfully answer all questions put to him and notwithstanding anything 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.

(c) It shall be the duty of every person questioned under paragraph (a) of the regulations to deliver to the police officer or a person duly authorised, investigating into an 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 dully authorised.

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

Right of access to police officer.

53. 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 a police officer in addition to general powers.

54. 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

55. (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 the police officer under any emergency regulation may also be exercised by any person authorized by the president on this behalf.

Detention of the police officer or member of the forces.

55A. Where in the course of his duty a police officer or any member of the armed forces causes the death of any person, such officer or member as the case may be, shall notwithstanding the provisions of any other law, be handed over to the appropriate authority to be detained in the police, custody or military custody as the case may be.

Death of person due to action of or in custody of any police officer or any member of the armed forces.

55B. Where a police officer or a member of the armed services has reason to believe that the death of any person may have been caused as the result of any action taken in the course of duty either by him or any officer subordinate to him, where any person dies in police custody or military custody, the Superintendent of the Police in charge of the Division to which such police officer is attached or in the case of a member of the armed forces the Commanding Officer of the Unit to which he belongs shall, notwithstanding anything to the contrary in the Chapter XXX, and Section 9, of the Code of Criminal Procedure Act, No. 15 of 1979 or the provisions of any other written law, report the facts relating to the death, to the Inspector-General of Police or to the nearest Deputy Inspector-General of Police.

Police officer to make report and record statements, &c.

55C. Upon receipt of the information under regulation 55B, the Inspector-General of Police or the Deputy Inspector-General of the Police as the case may be, shall;

- (a) direct an officer not below the rank of an Assistant Superintendent of Police, to proceed to the scene of the incident and -

- (i) to record his observations;
 - (ii) to take charge of any probable production; and
 - (iii) to record the statements of any persons, who in his opinion, appear to be acquainted with the circumstances relating to such death; and
- (b) in any case where body is found forthwith report such facts to the Magistrate.

Conducting of post-mortem and burial or cremation of dead bodies.

55D. (1) The Magistrate shall, upon receipt of the report of the facts by the Inspector-General of Police, or the Deputy Inspector-General of Police as the case may be under the regulation 55C:

- (a) direct a Government Medical Officer to forthwith hold a post-mortem examination of such body and may direct that the dead body if it has already been buried, be disinterred; and
- (b) make an order that the conclusion of the post-mortem examination that the dead body be handed over to the Deputy Inspector-General of Police for disposal.

(2) The Deputy Inspector-General of the Police to whom the body is handed over under paragraph (1) (b) above shall hand over the dead body to any relations who may claim the dead body, subject to such conditions or restrictions as he may deem necessary in the interest of national security or for the maintenance or preservation of public order:

Provided, however, that the Deputy Inspector-General of Police may in the interest of national security or for the maintenance or preservation of public order, authorise the taking possession of and effecting the burial or the cremation of the dead body in accordance with such steps as he may deem necessary in the circumstances.

High Court to inquire into death of any person upon application made to it by the Inspector-General of Police.

55E. (1) The High Court holden in Colombo shall notwithstanding anything to the contrary contained in any written law have exclusive jurisdiction to inquire into the death of any person in any part of the island or within its territorial waters, caused or purported to have been caused in the circumstances specified in the regulation 55B.

(2) (a) The Judge of the High Court holden in Colombo shall upon application being made to such Court by the Inspector-General of Police hold an inquiry into the death of the person named as deceased in such application.

(b) Where any proceedings are pending in any Magistrate's Court in respect of the death of such person named as the deceased in an application under paragraph (a) of this regulation all such proceedings pending in the Magistrate's Courts on the date of such application shall stand transferred to the said High Court.

(c) The Judge of the Court may hold such inquiry or part of such inquiry in any part of Sri Lanka having regard to the interest of national security and public order.

(d) The Government Medical Officer conducting the post-mortem examination shall forward his report to the Judge of the said High Court and shall not disclose anything contained therein to any person unless authorized to do so by the High Court.

(e) The Inspector-General of Police shall forward to the judge of the High Court the report of the preliminary observations and any other documents as may be necessary for the purpose of conducting the inquiry.

(f) The Judge of the High Court shall record such evidence as may be placed before him by the Inspector-General of Police or other officer authorized by him in that behalf and the evidence of any other person who appears to be acquainted with the circumstances relating to the death under inquiry.

(g) The proceedings before the High Court shall not be open to the public and only such reports of the proceedings or part thereof as is authorized by the Competent Authority, shall be published:

Provided, however, that the Court of Appeal may on application made to in that behalf direct that the proceedings or any part thereof, shall be open to the public.

(h) At the conclusion of the inquiry the Judge of the High Court shall transmit the record of the evidence and a report of the circumstances under which the death was caused together with any other documents to the Attorney-General.

Powers of Attorney-General.

55F. Upon receipt of the record of the evidence and other documents transmitted to him under regulation 55E (2) (h), it shall be lawful for the Attorney-General -

- (a) to call for any further material or information as he may require;
- (b) if he is satisfied that the commission of any offences has been disclosed -
 - (i) direct the institution of proceedings under Chapter XIV or XV of the Code of Criminal Procedure Act, No. 15 of 1979; or

- (ii) proceed under the provision of the subsection (7) of section 393 of the Code of Criminal Procedure Act.

Secretary Defence, to take action where death is caused to a police officer or member of the armed forces.

55G. Notwithstanding the preceding provisions, where death is caused to any police officer or any member of the armed forces it shall be lawful for the Secretary to the Ministry of Defence-

- (a) to instruct the Inspector-General of Police or the Commander of the Sri Lanka Army, the Commander of the Sri Lanka Navy or the Commander of the Sri Lanka Air Force, the case may be, to take all measures as may be necessary for the cremation or burial of the dead body subject to such restrictions and conditions as he may impose in the interest of national security or for the maintenance or preservation of public order ; or
- (b) to direct the Inspector-General of Police to take such steps as are set in regulation 55B in respect of such death and accordingly the provisions of regulations 55C, 55D, 55E and 55F shall thereupon be applicable.

Priority for court proceedings.

56. 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.

Inquiries and trials

57. (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 is 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 into or tried. Such court shall be a court which would have had jurisdiction to inquire into or try such offence, if such offence had been committed within the local limits of the jurisdiction of such court.

(2A) 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.

(3) 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.

(4) 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.

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

Sanction of Attorney-General.

58. (1) Subject to the provisions of paragraph (3) of regulation 24, no prosecution shall be instituted in the magistrate's Court -

- (a) indirectly, the exercise or performance, of any power or duty under 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 such regulation.

except by with the consent 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 lone as such order remains in force, that paragraph shall not apply to any such offence.

Trials before High Court.

59. (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 or High Court at bar, as the case may by, without a jury;

Provided that where the Attorney-General being of the opinion that the evidence recorded at a preliminary inquiry will be necessary for preparing an indictment, may direct the holding of the preliminary inquiry. The provisions of the 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 thereof 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, absconding or feigning illness.

(5) Any person indicted 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 the 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 Court, or the High Court at Bar, as the case may be, without a jury.

Admissibility of statement in evidence.

60. (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 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 to a police officer below the rank of the 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) is 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 offences 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 Code Procedure Act, No. 15 of 1979.

Provisions of Chapter XI of the Code of Criminal Procedure Act, No. 15 of 1979 not to apply.

61. 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.

Certificate of Government Analyst and destruction of anything or matter by Government analyst.

62. (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 anything 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.

(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 practical 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, Deputy Government Analyst, Assistant Government Analysts 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 be conclusive proof of the truth of the statement contained in such certificate without such officer being called to testify in such proceedings.

(5) In this regulation, "Offence" means any offence under any emergency regulation or under the Explosives Act, or under the Offensive Weapons Act, No. 18 of 1966, or the Firearms Ordinance or under Chapter VI or Chapter VII or Chapter VIII of the Penal Code.

PART 7 --MISCELLANEOUS

Modification of the Code of Criminal Procedure Act, No. 15 of 1979.

63. (1) During the continuance in force of this regulation -

(a) sections 95 and 96 of the Code of Criminal Procedure Act, No. 15 of 1979

(which relates to the power to disperse unlawful assemblies), shall cease to be in force; and

- (b) any police officer of a rank not below that of a Sergeant, any member of the Sri Lanka Army of the rank not below that of Corporal, any member of the Sri Lanka Navy not below the rank of Leading Seamen, or any member of the Sri Lanka Air Force of the rank not below that of 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 of Government Department, to remove himself or themselves from that place, and it shall be the duty of such person, or each person, as the case may be, to comply with such order.

(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 conduct 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 force, and may cause such person to be removed or arrested and confined.

(3) During the continuance in force of this regulation, sections 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, save and except an offence under regulation 13 (1) thereof.

Duty to answer questions

65. (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 the 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.

66. (1) Without prejudice to any special provisions contained in these regulations, any person shall, on being requested so to do by or on behalf of a competent authority,

furnish or produce to such authority or person as may be specified in the request any such information or article in his possession as may be so specified, being information or an article which the authority or person making the request is of opinion that it is necessary or expedient to obtain or examine in the interest of national security or the maintenance of public order, or for the purpose of any emergency regulation; and if any person fails to furnish or produce any information or article in his possession in pursuance of 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 Ordinance.

67. 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 from such of the provisions of the Motor Traffic Act, and the regulations made thereunder as are specified in Schedule A of the Motor Traffic (Exemption of her Majesty's Forces) Regulations, 1955, published in Gazette No. 10815 of July 8, 1955.

Proscribed Organization.

68. (1) Where the President is of the opinion with respect to any organization that there is a danger of action by, or of the utilisation of the organization or its members or adherents-

- (a) for the purposes prejudicial to national security, the maintenance of public order or the maintenance of essential services; or
- (b) for any of the purposes referred to in sub-paragraph (b) of paragraph (2) of regulation 41, or sub-paragraph (a) to (g), of regulation 26 of these regulations,

the president may by Order published in the Gazette declare that organization to be a proscribed organization.

(2) Where any organization has been declared under paragraph (1) of this regulation to be a proscribed organization, then this regulation shall also apply to every other organization and every person or body or group of persons engaged in activities substantially similar to those carried on by the proscribed organization in like manner as though it or he or they were also a proscribed organization.

(3) No person shall -

- (a) make, print or distribute, or be in any way concerned in making, printing,

or distribution of any written or printed matter which is published or purports to be published by a proscribed organization or by any member or manager thereof; or

- (b) communicate or attempt to communicate to any person, in any manner, any order, decision, declaration or exportation made or purporting to have been made by the organization or any manager thereof of any information relating thereto; or
- (c) summon or attend any meeting of the organization or of any members of managers thereof; or
- (d) invite or exhort any other person to join or support the organization; or
- (e) invite or collect contributions in money or otherwise for the purposes of the organization or make any such contribution as aforesaid; or
- (f) do or attempt to do any act or thing in his capacity as a manager of the organization or in such circumstances as are likely to lead any other person to believe that he is acting in such capacity; or
- (g) harbour or conceal any member of the organization or any person suspected to be a member of the organization.

(3A) (1) If the Secretary of the Ministry of Defence is of the opinion that any printing press under the control of any proscribed organisation, has been or is likely to be used for the production of any document containing matter which is in his opinion calculated-

- (a) to prejudice to the interest of national security or public order; or
- (b) to prejudice the maintenance of supplies and services essential to the life of the community; or
- (c) to incite or encourage persons to mutiny, riot or civil commotion,

he may by order direct that the printing press, or all or any of the printing presses under the control of that organization as are specified in such order, shall, for so long as the order is in force, not be used for any purpose whatsoever or for any particular purpose as is specified in the order.

(2) The Secretary of the Ministry of Defence may also in such order authorize the persons specified therein to take such steps (including the taking possession of any printing press with respect to which the order is made or of any premise in which it is

contained or any part of such press or premises) as appear to the persons so authorised to be necessary for securing compliance with the order.

In this regulation "printing press" include any machinery, apparatus or plant capable of being used for printing, lithography, photography, or other mode of representing or reproducing words in a visible form, or any type of other articles belonging to such machinery, apparatus or plant.

(4) If, upon application being made by the Attorney-General, or by any member or creditor of the organization, it appears to the High Court that any organization is an organization to which this regulation applies the Court may make such order as appears necessary to prevent any disposition without the leave of the Court of property held by or for the organization, and may direct an inquiry and report to be made as to any such property as aforesaid, and as to the affairs of the organization, and make such further orders as appears to the Court to be just and equitable for the winding-up and dissolution of the organization and for the application of any such property aforesaid in or towards any cost incurred in connection with any such inquiry and report and the winding up and dissolution of the organization and or towards the discharge of the liabilities of the organization lawfully incurred before the date of the application or since that date with the approval of the Court, and shall order that any such property which is not directed by the court to be so applied shall be forfeited to the Republic.

(5) In this regulation, "manager" in relation to any organization, means any officer of the organization and any person taking part in the management or control of the organization or holding or purporting to hold a position of management control therein.

Rendering assistance to persons injured by bombs, &c.

69. Any person who renders any medical assistance to, or from whom medical assistance is sought by, an injured person who appears to have received such injury consequent to the use of a firearm, bomb explosive or other lethal substance or device shall record the particulars of the identity of such injured person, the details of the injury and forthwith furnish such information to the nearest Police station.

The powers, duties and functions of a Government Agent may be exercised or performed by a Co-ordination Officer.

70. (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 to a Government Agent in

such written law shall in its application in the case of that area, be construed as a reference to such Co-ordinating Officer.

(3) The President may, by order, appoint any person, by name or by office, 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 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 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-ordinating Officer by this regulation and over whom he exercises supervision; and
- (b) give special or general directions to any Co-ordinating Officer over whom he exercises supervision, as to the exercise, performance or discharge by such Co-ordinating Officer, of any power, duty or function conferred or imposed on such Co-ordinating Officer by this regulation.

Protection of action.

71. 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.

Repeal.

72. The emergency (Miscellaneous Provisions and Powers) Regulations No. 4 of 1994 published in Gazette No. 843/12 of November 4, 1994 are hereby repealed.

SCHEDULE

- (a) the services provided by the Central Bank or any banking institution as defined in subsection (1) of section 127 of the Monetary Law Act (Chapter 422) or the State Mortgage and Investment Bank, established under the State Mortgage and Investment Bank Law, No. 13 of 1975;
- (b) all services, work or labour of any description whatsoever necessary or required to be done in connection with the maintenance and the reception, feeding, nursing care and treatment of patients in hospitals, dispensaries and other institutions, under the Ministry of Health and Women's Affairs;
- (c) all services connected with the supply or distribution of fuel, including petroleum products and gas;
- (d) all services connected with the supply of electricity;
- (e) all services, work or labour of any description whatsoever, necessary or required to be done in connection with the maintenance of postal and telecommunication services, including the overseas telecommunication services;
- (f) all services, work or labour of any description whatsoever necessary or required to be done by officers or servants of all Ministries, Government Departments and Public Corporation;
- (g) all services, work or labour of any description whatsoever necessary or required to be done in connection with the maintenance of road, rail and other public transport services;
- (h) all services, work or labour of any description whatsoever necessary or required to be done in connection with the maintenance and management of tea, rubber and coconut plantations or the production and manufacture of tea, rubber and coconut;
- (i) all services, work or labour of any description whatsoever necessary or required to be done in connection with the export of commodities, garments and other products;
- (j) all services, work or labour of any description, necessary or required to be done by officers and servants of the public company registered as the Associated Newspapers of Ceylon Ltd.;

- (k) all services, work or labour of any description, necessary or required to be done in connection with the maintenance of all broadcasting and television services;
- (l) all services of any description, necessary or required to be done in connection with the sale, supply or distribution, of any article of food or medicine or any other article required by a member of the public.