



ST. HELENA

## CHAPTER 137

# EMERGENCY POWERS ORDINANCE and Subsidiary Legislation

### Non-authoritative Consolidated Text

This is not an authoritative 'revised edition' for the purposes of the Revised Edition of the Laws Ordinance; it has been prepared under the supervision of the Attorney General for the purpose of enabling ready access to the current law, and specifically for the purpose of being made accessible via the internet.

Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown [Telephone (+290) 2270; Fax (+290) 2454; email [pa.lawofficers@legalandlands.gov.sh](mailto:pa.lawofficers@legalandlands.gov.sh)]<sup>1</sup>

Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

This version contains a consolidation of the following laws—

	Page
<b>EMERGENCY POWERS ORDINANCE</b>	<b>2</b>
Ordinance 10 of 1978 .. in force 21 September 1978 Corrected by Legal Notice 21 of 1978	
<b>EMERGENCY POWERS ORDERS IN COUNCIL 1939 AND 1952</b>	<b>4</b>
(U.K.) S.I. 1952 No. 2031 Amended by S.I. 2011/2982 (UK)	

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<sup>1</sup> These contact details may change during 2011 or early in 2012. In case of difficulty, email [shgwebsite@sainthelena.gov.sh](mailto:shgwebsite@sainthelena.gov.sh) or telephone (+290) 2470.

**CHAPTER 137****EMERGENCY POWERS ORDINANCE**

*(Ordinance 10 of 1978)*

AN ORDINANCE TO MAKE EXCEPTIONAL PROVISION FOR THE MAINTENANCE OF ESSENTIAL SUPPLIES AND SERVICES TO THE COMMUNITY IN CASE OF EMERGENCY.

**Commencement**

*[21 September 1978]*

**Short title**

1. This Ordinance may be cited as the Emergency Powers Ordinance.

**Emergency regulations**

2. (1) If at any time it appears to the Governor that there have occurred, or are about to occur, events of such a nature as to be calculated, by interfering with the supply and distribution of food, water, fuel or light, or with the means of locomotion to, from or within St. Helena, to deprive the community, or any substantial portion of the community, of the essentials of life, the Governor in Council may, make regulations for securing the essentials of life to the community, and those regulations may confer or impose on any persons such powers and duties as the Governor in Council may deem necessary for the preservation of the peace, for securing and regulating the supply and distribution of food, water, fuel, light, and other necessities, for maintaining the means of transit or locomotion, and for any other purposes essential to the public safety and the life of the community, and may make such provisions incidental to the powers aforesaid as may appear to the Governor in Council to be required for making the exercise of those powers effective:

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

Provided also that no such regulation shall make it an offence for any person or persons to take part in a strike, or peacefully to persuade any other person or persons to take part in a strike.

(2) Whenever any such regulations have been made, a meeting of the Legislative Council shall be forthwith called, to take place within seven days of the making of the said regulations, and such regulations shall be laid before such meeting of the Legislative Council, and such regulations shall not continue in force after the expiration of seven days from the time when they are so laid unless a resolution is passed in the Legislative Council providing for the continuance thereof.

**Penalties may be provided by the regulations**

3. The regulations made under this Ordinance may provide for the trial, by the Magistrates Court, of persons guilty of offences against the regulations; so however that the maximum penalty which may be inflicted for any offence against any such regulations shall be imprisonment for a term of three months, or a fine of £100 or both such imprisonment and fine,

together with the forfeiture of any goods or money in respect of which the offence has been committed:

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

#### **Effect of regulations and change of same, including expiry**

4. (1) The regulations so made shall have effect as if enacted in this Ordinance, but may be added to, altered, or revoked by resolution of the Legislative Council, or by regulations made in like manner and subject to the like provisions as the original regulations.

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

#### **Power to compensate**

5. Any loss suffered by any person due to action taken by the Governor in Council under this Ordinance may be compensated at the discretion of the Governor in Council and such compensation may be paid from the General Revenue of St. Helena or such other source as may be decided by the Governor.

#### **Offences**

6. (1) Any person who contravenes any provision of any regulations made under this Ordinance shall be guilty of an offence, and unless some other penalty is specifically provided therefor shall be liable on conviction to a fine not exceeding £50 or one month's imprisonment, or to both such fine and imprisonment.

(2) It shall specifically be an offence to wilfully obstruct or prevent any person from performing his duties under regulations made under this Ordinance and any person found guilty of such offence shall be liable to the penalties provided in subsection (1).

#### **Scope of Ordinance**

7. The enactment of this Ordinance shall not affect or prevent the operation in St. Helena of any English Law which applies by virtue of the English Law (Application) Ordinance or of any English Law applied to St. Helena by the action of the Parliament of the United Kingdom or Her Majesty's Privy Council.

## EMERGENCY POWERS ORDER IN COUNCIL 1939 AND 1952

*(U.K.) S.I. 1952 No. 2031 and (U.K.) S.I. 2011 No. 2982*

AT THE COURT AT BUCKINGHAM PALACE

The 9th day of March, 1939

Present,

The King's Most Excellent Majesty

Marquees of Zetland  
Lord ChamberlainMr. Chancellor of the Durby  
of Lancaster

Sir Hugh O'Neil

Whereas it is expedient to make other provision than that now existing for the security in time of emergency of the colonies and protectorates mentioned in Part I of the First Schedule to this Order, and of the territories in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty mentioned in Part II of the said Schedule:

Now, therefore, His Majesty, by virtue and in exercise of the powers vested in Him by the British Settlements Act, 1887, the Foreign Jurisdiction Act, 1890, and of all other powers enabling Him in this behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows—

PART I  
GENERAL

1. This Order may be cited as the Emergency Powers Order in Council, 1939.

2. (1) In this Order, unless the context otherwise requires—

“**territory**”<sup>2</sup> means any territory mentioned in the First Schedule hereto, and includes the territorial waters, if any, adjacent thereto;

“**Governor**” includes any person administering the Government of the territory, and in the case of Zanzibar means the British Resident or the person lawfully discharging his functions;

“**law**” includes any Order of His Majesty in Council except this Order, and any Ordinance, order, rule, regulation, by-law, or other law for the time being in force in the territory.

(2) The Interpretation Act, 1889, shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

3. (1) The provisions of Part II of this Order shall have effect in any territory in which they shall from time to time, in case of any public emergency, be brought into operation by Proclamation made by the Governor, and shall continue in operation until a further proclamation directing that they shall cease to have effect is made by the Governor, and shall then cease to have effect except as respects things previously done or omitted to be done.

(2) A Proclamation under the preceding subsection may, if the Governor thinks fit, be made so as to apply only to such part of the territory as may be specified in the Proclamation (in this subsection called “the emergency area”) in which case Regulations made under the said Part II shall, except as otherwise expressly provided in such Regulations, have effect only in the emergency area. *(Inserted by (U.K.) S.I. 1952 No. 2031)*

4. The orders specified in the Second Schedule hereto shall be revoked as from the first day of June, 1939:

Provided that nothing in this revocation shall affect any Regulations made under any of the Orders hereby revoked and in force in any territory on the date aforesaid, but all such Regulations shall continue in force until revoked, or until amended or varied by Regulations made under Part II of this Order.

<sup>2</sup> Definition of “territory” amended by S.I. 2011/2982 (UK)

5. His Majesty may from time to time revoke, add to, amend or otherwise vary this Order.

PART II  
REGULATIONS

6. (1) The Governor may make such Regulations as appear to him to be necessary or expedient for securing the public safety, the defence of the territory, the maintenance of public order and the suppression of mutiny, rebellion and riot, and for maintaining supplies and services essential to the life of the community.

(2) Without prejudice to the generality of the powers conferred by the preceding subsection, the Regulations may, so far as appears to the Governor to be necessary or expedient for any of the purposes mentioned in that subsection—

- (a) make provision for the detention of persons and the deportation and exclusion of persons from the territory;
- (b) authorise—
  - (i) the taking of possession or control, on behalf of His Majesty, or any property or undertakings;
  - (ii) the acquisition on behalf of His Majesty of any property other than land;
- (c) authorise the entering and search of any premises;
- (d) provide for amending any law, for suspending the operation of any law and for applying any law with or without modification;
- (e) provide for charging, in respect of the grant or issue of any licence, permit, certificate or other document for the purposes of the Regulations, such fee as may be prescribed by or under the Regulations;
- (f) provide for payment of compensation and remuneration to persons affected by the Regulations;
- (g) provide for the apprehension, trial and punishment of persons offending against the Regulations:

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

7. The Regulations may provide for empowering such authorities or persons as may be specified in the Regulations to make orders and rules for any of the purposes for which such Regulations are authorised by this Order to be made, and may contain such incidental and supplementary provisions as appear to the Governor to be necessary or expedient for the purposes of the Regulations.

8. A Regulation or any order or rule made in pursuance of such a Regulation shall have effect notwithstanding anything inconsistent therewith contained in any law; and any provision of a law which may be inconsistent with any Regulation or any such order or rule shall, whether that provision shall or shall not have been amended, modified or suspended in its operation under section 6 of this Order, to the extent of such inconsistency have no effect so long as such Regulation, order or rule shall remain in force.

9. Every document purporting to be an instrument made or issued by the Governor or other authority or person in pursuance of this Order, or of any Regulation, and to be signed by or on behalf of the Governor or such other authority or person, shall be received in evidence, and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Governor or that authority or person.

*Rupert B. Howorth*

**FIRST SCHEDULE<sup>3</sup>**

## PART I

## COLONIES AND PROTECTORATES

Aden (Colony and Protectorate)  
British Guiana  
British Solomon Islands Protectorate  
Ceylon  
Cyprus  
Falkland Islands and Dependencies  
Fiji  
Gambia (Colony and Protectorate)  
Gibraltar  
Gilbert and Ellice Islands Colony  
Gold Coast—  
    (a) Colony  
    (b) Ashanti  
    (c) Northern Territories  
Grenada  
Hong Kong  
Kenya (Colony and Protectorate)  
Malta  
Mauritius  
Nigeria (Colony and Protectorate)  
Northern Rhodesia  
Nyasaland Protectorate  
St. Helena, Ascension and Tristan da Cunha  
St. Lucia  
St. Vincent  
Seychelles  
Sierra Leone (Colony and Protectorate)  
Somaliland Protectorate  
South Georgia and the South Sandwich Islands  
Straits Settlements  
Trinidad and Tobago  
Uganda Protectorate  
Zanzibar Protectorate

## PART II

## MANDATED TERRITORIES

Cameroons under British Mandate  
Tanganyika Territories  
Togoland under British Mandate

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<sup>3</sup> Schedule amended by S.I. 2011/2982 (UK)

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**SECOND SCHEDULE**

An Order in Council made on the 26th day of October, 1896, subjecting persons in Gibraltar to military law, empowering the Governor to make Regulations, and containing other provision.

The British Protectorates (Defence) Order in Council, 1916.

The Defence (Certain British Possessions) Order in Council, 1928

The Malta (Governor's Emergency Powers) Order in Council, 1928.

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