



THE
CEYLON GOVERNMENT
GAZETTE

EXTRAORDINARY.

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PART I.—GENERAL.

(Separate paging is given to each Part in order that it may be filed separately.)

PROCLAMATIONS BY THE GOVERNOR.

IN the Name of His Majesty GEORGE VI. by the Grace of GOD of Great Britain, Ireland and the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India.

PROCLAMATION.

By His Excellency Sir ANDREW CALDECOTT, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Commander of the Most Excellent Order of the British Empire, Governor and Commander-in-Chief in and over the Island of Ceylon, with the Territories and Dependencies thereof.

A. CALDECOTT.

WHEREAS by the Emergency Powers (Colonial Defence) Order in Council, 1939, set out in Schedule A hereto, His Majesty has directed that the provisions of the Emergency Powers (Defence) Act, 1939, set out in Schedule B hereto, shall extend to Ceylon, subject to the adaptations and modifications specified in that Order in Council:

Now, therefore, I, Andrew Caldecott, Governor of Ceylon, do hereby proclaim the aforesaid Order in Council in Ceylon.

Given at Colombo this twenty-sixth day of August, One thousand nine hundred and thirty-nine.

By His Excellency's command,

E. R. SUDBURY,
Secretary to the Governor.

GOD SAVE THE KING.

SCHEDULE A.

No. CF.D. 306/38.

THE EMERGENCY POWERS (COLONIAL DEFENCE) ORDER IN COUNCIL, 1939.

Whereas by subsection (1) of section four of the Emergency Powers (Defence) Act, 1939, it is provided that His Majesty may by Order in Council direct that the provisions of that Act other than that section shall extend, with such exceptions, adaptations and modifications, if any, as may be specified in the Order—

- (a) to the Isle of Man or any of the Channel Islands,
- (b) to Newfoundland or any colony,
- (c) to any British Protectorate,
- (d) to any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty, and is being exercised by His Majesty's Government in the United Kingdom, and
- (e) (to the extent of His Majesty's jurisdiction therein) to any other country or territory being a foreign country or territory in which for the time being His Majesty has jurisdiction:

Now, therefore, His Majesty in pursuance of subsection (1) of section four of the said Act, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Emergency Powers (Colonial Defence) Order in Council, 1939.

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

- (a) the expression "territory" includes the territorial waters, if any, adjacent thereto, and any dependency thereof;
- (b) the expression "Governor" in relation to any territory 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.

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

3. The provisions of the Emergency Powers (Defence) Act, 1939, other than section four thereof (excepting the following provisions thereof, that is to say, subsections (3) and (4) of section two, section five, subsection (3) of section six, and sections eight, nine and eleven) shall, subject to the adaptations and modifications contained in the First Schedule to this Order, extend to the territories mentioned in the Second Schedule to this Order.

4. The powers conferred on the Governor of a territory by virtue of this Order shall be in addition to, and not in derogation of, any other powers possessed by the Governor.

FIRST SCHEDULE.

- (a) The Governor shall be substituted for His Majesty in Council as the authority empowered to make Defence Regulations for the territory.
- (b) In subsection (1) of section one "the territory" shall be substituted for "the realm".
- (c) In paragraph (a) of subsection (2) of section one "the Governor" shall be substituted for "the Secretary of State".
- (d) In subsection (3) of section one "the Governor" shall be substituted for "His Majesty in Council".
- (e) In subsection (4) of section one the words "other than this Act", in both places where they occur, shall be omitted.
- (f) In subsection (6) of section one for the words "includes any enactment of the Parliament of Northern Ireland" there shall be substituted the words "includes any Act of Parliament in its application to the territory other than the Emergency Powers (Defence) Act, 1939, any Order of His Majesty in Council in its application to the territory other than an Order made under the Emergency Powers (Defence) Act, 1939, and any Ordinance or other law in force in the territory".
- (g) In subsection (1) of section two "The Governor" shall be substituted for "the Treasury" in both places where the words occur.
- (h) In subsection (2) of section two "the general revenues of the territory" shall be substituted for "the Exchequer of the United Kingdom".
- (i) In subsection (5) of section two for the words "such fee not exceeding five pounds as may be prescribed under the Regulations with the approval of the Treasury" there shall be substituted the words "such fee as may be prescribed by or under the Regulations"; and for the words "shall be paid into the Exchequer of the United Kingdom, or if the Treasury so direct, be paid into such public fund or account as they may determine" there shall be substituted the words: "shall be paid into the general revenues of the territory or, if the Governor so directs, be paid into such public fund or account as he may determine".
- (j) In subsection (1) of section three "the territory" shall be substituted for "the United Kingdom" wherever those words occur, and in paragraph (b) of that subsection the words "the United Kingdom and" shall be inserted between the figure "(i)" and the words "a Dominion".
- (k) In subsection (1) of section six "this Order" shall be substituted for "this Act", and "the territory" shall be substituted for "the realm".
- (l) In section seven the references to a Minister shall be omitted.
- (m) Reference to British ships shall be construed as including reference to all ships registered in, or licensed under the law of, the territory.

SECOND SCHEDULE.

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| Aden (Colony and Protectorate). | Leeward Islands— |
| Bahamas. | Antigua. |
| Barbados. | Dominica. |
| Bermuda. | Montserrat. |
| British Guiana. | St. Christopher & Nevis. |
| British Honduras. | Virgin Islands. |
| British Solomon Islands Protectorate. | Malta. |
| Ceylon. | Mauritius. |
| Cyprus. | Nigeria— |
| Falkland Islands. | (a) Colony. |
| Fiji. | (b) Protectorate. |
| Gambia (Colony and Protectorate). | (c) Cameroons under British Mandate. |
| Gibraltar. | Northern Rhodesia. |
| Gilbert and Ellice Islands Colony. | Nyasaland Protectorate. |
| Gold Coast:— | Palestine (excluding Trans-Jordan). |
| (a) Colony. | St. Helena and Ascension. |
| (b) Ashanti. | St. Lucia. |
| (c) Northern Territories. | St. Vincent. |
| (d) Togoland under British Mandate. | Seychelles. |
| Grenada. | Sierra Leone (Colony and Protectorate). |
| Hongkong. | Somaliland Protectorate. |
| Jamaica (including Turks and Caicos Island and the Cayman Islands). | Straits Settlements. |
| Kenya (Colony and Protectorate). | Tanganyika Territory. |
| | Trinidad and Tobago. |
| | Uganda Protectorate. |
| | Zanzibar Protectorate. |

SCHEDULE B.

An Act to confer on His Majesty certain powers which it is expedient that His Majesty should be enabled to exercise in the present emergency; and to make further provision for purposes connected with the defence of the realm.

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) Subject to the provisions of this section, His Majesty may by Order in Council make such Regulations (in this Act referred to as "Defence Regulations") as appear to him to be necessary or expedient for securing the public safety, the defence of the realm, the maintenance of public order and the efficient prosecution of any war in which His Majesty may be engaged, and for maintaining supplies and services essential to the life of the community.

Defence
Regulations.

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

(a) make provision for the apprehension, trial and punishment of persons offending against the Regulations, and for the detention of persons whose detention appears to the Secretary of State to be expedient in the interests of the public safety or the defence of the realm;

(b) authorise—

(i.) the taking of possession or control, on behalf of His Majesty, of 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; and

(d) provide for amending any enactment, for suspending the operation of any enactment, and for applying any enactment with or without modification.

(3) Defence Regulations may provide for empowering such authorities, persons or classes of persons as may be specified in the Regulations to make orders, rules and bye-laws for any of the purposes for which such Regulations are authorised by this Act to be made, and may contain such incidental and supplementary provisions as appear to His Majesty in Council to be necessary or expedient for the purposes of the Regulations.

(4) A Defence Regulation, and any order, rule or byelaw duly made in pursuance of such a Regulation, shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

(5) Nothing in this section shall authorise the imposition of any form of compulsory naval, military or air force service or any form of industrial conscription, or the making of provision for the trial by courts martial of persons not being persons subject to the Naval Discipline Act, to military law or to the Air Force Act.

(6) In this section the expression "enactment" includes any enactment of the Parliament of Northern Ireland.

2. (1) The Treasury may by order provide for imposing and recovering, in connection with any scheme of control contained in or authorised by Defence Regulations, such charges as may be specified in the order; and any such order may be varied or revoked by a subsequent order of the Treasury.

Power to impose
charges.

(2) Any charges recovered by virtue of such an order as aforesaid shall be paid into the Exchequer of the United Kingdom or, if the order so directs, be paid into such public fund or account as may be specified in the order.

(3) Any such order as aforesaid shall be laid before the Commons House of Parliament as soon as may be after it is made, but notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, shall be deemed not to be a statutory rule to which that section applies.

56 & 57 Vict.
c. 66.

(4) Any such order as aforesaid imposing or increasing a charge shall cease to have effect on the expiration of the period of twenty-eight days beginning with the day on which the order is made, unless at some time before the expiration of that period it has been approved by a resolution of the Commons House of Parliament, without prejudice, however, to the validity of anything previously done under the order or to the making of a new order.

In reckoning any period of twenty-eight days for the purposes of this subsection, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which the Commons House is adjourned for more than four days.

(5) Without prejudice to the preceding provisions of this section, any Defence Regulations may provide

(a) 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 not exceeding five pounds as may be prescribed under the Regulations with the approval of the Treasury; and

(b) for imposing and recovering such charges as may be so prescribed in respect of any services which, in pursuance of such Regulation, are provided on behalf of His Majesty, or under arrangements made on behalf of His Majesty, other than services necessary for performance of duties imposed by law upon the Crown;

and all sums received by way of such fees or charges as aforesaid shall be paid into the Exchequer of the United Kingdom or, if the Treasury so direct, be paid into such public fund or account as they may determine.

Extra-territorial
operation of
Defence
Regulations.

3. (1) Unless the contrary intention appears therefrom, any provisions contained in, or having effect under, any Defence Regulation shall—

- (a) in so far as they specifically impose prohibitions, restrictions or obligations in relation to ships, vessels or aircraft, or specifically authorise the doing of anything in relation to ships, vessels or aircraft, apply to all ships, vessels or aircraft in or over the United Kingdom and to all British Ships or aircraft, not being Dominion Ships or aircraft, wherever they may be; and
- (b) in so far as they impose prohibitions, restrictions or obligations on persons, apply (subject to the preceding provisions of this subsection) to all persons in the United Kingdom and all persons on board any British ship or aircraft, not being a Dominion ship or aircraft, and to all other persons being British subjects except persons in any of the following countries or territories, that is to say,—
 - (i.) a Dominion,
 - (ii.) India, Burma and Southern Rhodesia,
 - (iii.) any country or territory to which any provisions of this Act can be extended by Order in Council, and
 - (iv.) any other country or territory, being a country or territory under His Majesty's protection or suzerainty:

Provided that Defence Regulations may make provision whereby the owner, manager or charterer of any British ship or aircraft, being a person resident in the United Kingdom or a corporation incorporated under the law of any part of the United Kingdom, is subjected to restrictions in respect of the employment of persons in any foreign country or territory in connection with the management of the ship or aircraft.

(2) In this section the expression "Dominion ship or aircraft" means a British ship or aircraft registered in a Dominion, not being a ship or aircraft for the time being, placed at the disposal of, or chartered by or on behalf of, His Majesty's Government in the United Kingdom; and, for the purposes of subsection (1) of this section, any ship or aircraft registered in India, Burma or Southern Rhodesia, not being a ship or aircraft for the time being placed at the disposal of or chartered by or on behalf of His Majesty's Government in the United Kingdom, shall be treated as if it were a Dominion ship or aircraft.

(3) Subsection (1) of this section shall apply in relation to British protected persons, as that subsection applies in relation to British subjects.

Provisions as to
Colonies, &c.

4. (1) His Majesty may by Order in Council direct that the provision of this Act other than this section shall extend, with such exceptions, adaptations and modifications, if any, as may be specified in the Order,—

- (a) to the Isle of Man or any of the Channel Islands,
- (b) to Newfoundland or any colony,
- (c) to any British Protectorate,
- (d) to any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty, and is being exercised by His Majesty's Government in the United Kingdom, and
- (e) to the extent of His Majesty's jurisdiction therein to any other country or territory being a foreign country or territory in which for the time being His Majesty has jurisdiction;

and, in particular, but without prejudice to the generality of the preceding provisions of this section, such an Order in Council may direct that any such authority as may be specified in the Order shall be substituted for His Majesty in Council as the authority empowered to make Defence Regulations for the country or territory in respect of which the Order is made.

(2) His Majesty may by Order in Council make, or authorize the making of, provision whereby persons offending against any Defence Regulations may be apprehended, tried and punished in the United Kingdom, or any of the countries or territories specified in the preceding subsection, whether section one of this Act extends to that country or territory or not.

Extra-territorial
operation of
defence
legislation of
certain
Dominions, &c.

5. (1) If and so far as the provisions of any Act for purposes of defence passed by the Parliament of the Commonwealth of Australia or by the Parliament of the Dominion of New Zealand purport to have extra-territorial operation as respects—

- (a) ships or aircraft registered in the said Commonwealth or Dominion, or
- (b) the employment of persons in relations to British ships or aircraft by owners, managers or charterers of such ships or aircraft who are persons resident in the said Commonwealth or Dominion or corporations incorporated under the law of the said Commonwealth or Dominion or any part thereof,

the said provisions shall be deemed to have such operation.

(2) No law made for purposes of defence by the Indian Legislature or the Federal Legislature of India or by the Legislature of Burma shall, on the ground that it would have extra-territorial operation, be deemed to be invalid in so far as it makes provision whereby any owner, manager or charterer of a British

ship or aircraft who is a person resident in India or Burma or a corporation incorporated under the law of India or Burma or any part thereof, is subjected to restrictions in respect of the employment of persons in relation to the ship or aircraft.

Nothing in this subsection shall be taken to prejudice the effect of section ninety-nine of the Government of India Act, 1935, or section thirty-three of the Government of Burma Act, 1935.

(3) If and so far as the provisions of any law for purposes of defence made by the Legislature of Southern Rhodesia purport to have extra-territorial operation as respects—

- (a) aircraft registered in Southern Rhodesia, or
- (b) the employment of persons in relation to British aircraft by owners, managers or charterers of such aircraft who are persons resident in Southern Rhodesia or corporations incorporated under the law of Southern Rhodesia,

the said provisions shall be deemed to have such operations.

6. (1) If, as respects any proceedings before a court (whether instituted before or after the commencement of this Act), the court is satisfied that it is expedient, in the interests of the public safety or the defence of the realm so to do, the court—

- (a) may give directions that, throughout, or during any part of, the proceedings, such persons or classes of persons as the court may determine shall be excluded;
- (b) may give directions prohibiting or restricting the disclosure of information with respect to the proceedings.

The powers conferred by this subsection shall be in addition to, and not in derogation of, any other powers which a court may have to give such directions as aforesaid.

(2) If any person contravenes any directions given by a court under the preceding subsection, then without prejudice to the law relating to contempt of court, he shall be liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine, or, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds or to both such imprisonment and such fine.

(3) The operation of subsection (4) of section eight of the Official Secrets Act, 1920, shall be suspended during the continuance in force of this Act.

7. Every document purporting to be an instrument made or issued by any Minister or other authority or person in pursuance of any provision contained in, or having effect under, Defence Regulations, and to be signed by or on behalf of the said Minister, 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 that Minister, authority or person; and prima facie evidence of any such instrument as aforesaid may, in any legal proceedings (including arbitrations), be given by production of a document purporting to be certified to be a true copy of the instrument by, or on behalf of, the Minister or other authority or person having power to make or issue the instrument.

8. (1) Every Order in Council containing a Defence Regulation shall be laid before Parliament as soon as may be after it is made; but, notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, such an Order in Council shall be deemed not to be a statutory rule to which that section applies.

(2) If either House of Parliament, within the next twenty-eight days on which that House has sat after such an Order as aforesaid is laid before it, resolves that the Order be annulled, the Order shall thereupon cease to have effect except as respects things previously done or omitted to be done, without prejudice, however, to the making of a new Order.

(3) Any power conferred by the preceding provisions of this Act to make an Order in Council shall be construed as including a power to vary or revoke the Order.

9. The powers conferred by or under this Act shall be in addition to, and not in derogation of, the powers exercisable by virtue of the prerogative of the Crown.

10. (1) In this Act the expression "Dominion" means any Dominion within the meaning of the Statute of Westminster, 1931, except Newfoundland, and includes any territory administered by His Majesty's Government in such a Dominion.

(2) Reference in this Act to British aircraft shall be construed as reference to aircraft registered in any part of His Majesty's Dominions, in any British Protectorate or in any Territory in respect of which a Mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by the Government of any part of His Majesty's Dominions.

(3) For the avoidance of doubt it is hereby declared that any reference in this Act to Defence Regulations includes a reference to regulations made under any provision of this Act, as extended to any country or territory by an Order in Council under this Act, and that any reference in this Act to any country or territory includes a reference to the territorial waters, if any, adjacent to that country or territory.

26 Geo. 5, c. 2.
26 Geo. 5, c. 8.

Hearing of
proceedings in
camera.

10 & 11 Geo. 5,
c. 75.

Proof of
instruments.

Provisions as to
Orders in
Council.

Saving of
prerogative
powers.
Interpretation.
22 Geo 5. c. 4.

Duration of
Act.

11. (1) Subject to the provisions of this section, this Act shall continue in force for the period of one year beginning with the date of the passing of this Act, and shall then expire:

Provided that, if at any time while this Act is in force, an address is presented to His Majesty by each House of Parliament praying that this Act should be continued in force for a further period of one year from the time at which it would otherwise expire, His Majesty may by Order in Council direct that this Act shall continue in force for that further period.

(2) Notwithstanding anything in the preceding subsection, if His Majesty by Order in Council declares that the emergency that was the occasion of the passing of this Act has come to an end, this Act shall expire at the end of the day on which the Order is expressed to come into operation.

(3) The expiry of this Act shall not affect the operation thereof as respects things previously done or omitted to be done.

Short title.

12. This Act may be cited as the Emergency Powers (Defence) Act, 1939.