



THE
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PART I.—GENERAL.

GOVERNMENT NOTIFICATIONS.

THE EMERGENCY POWERS (DEFENCE) ACTS, 1939 AND 1940

DEFENCE regulation made by the Governor by virtue of the powers vested in him by the Emergency Powers (Defence) Acts, 1939 and 1940, of the Imperial Parliament, as adapted, modified and extended to Ceylon by the Emergency Powers (Colonial Defence) Order in Council 1939, and the Emergency Powers (Colonial Defence) (Amendment) Order in Council, 1940

By His Excellency's command,

E. R. SUBBURY,
Secretary to the Governor.

Colombo, November 23, 1941

Regulation

The Defence (Miscellaneous) Regulations, published in the *Supplement to Gazette* No 8,533 of October 20, 1939, as amended by any subsequent defence regulation, are hereby further amended by the insertion in Part V of those regulations, immediately after regulation 43, of the following new regulations —

43A (1) If the Governor is satisfied that it is expedient that any essential service undertaking, or any class or description of such undertakings should become subject to the provisions of this regulation, he may by order declare that undertaking, or every undertaking of that class or description, to be a controlled undertaking, and thereupon the following provisions shall have effect as respects every undertaking to which the order relates —

Controlled
undertakings.

- (a) the undertakers shall carry on the undertaking in accordance with orders made or directions given by a competent authority, and such orders or directions may, in particular—
- (i) require the undertakers to employ upon such work and for such period as may be specified in the order or directions, such persons, or such class or description of persons or such number of persons, or such number of persons of such class or description as may be so specified,
 - (ii) fix the price or remuneration to be paid for any articles produced or supplied or services rendered by the undertakers (whether to a competent authority or otherwise) in accordance with the order or directions;
- (b) no obligation or limitation imposed on the undertakers by or by virtue of any written law or any instrument determining their functions shall prevent or excuse the undertakers from complying with any such order or directions,
- (c) with a view to ascertaining whether any such orders or directions with respect to an undertaking are complied with, any person authorised in that behalf by a competent authority may at any time enter and inspect any premises used or appropriated for the purposes of the undertaking

(2) A competent authority may, to such extent and subject to such restrictions as he thinks proper, delegate all or any of his functions under this regulation to any specified person or class of persons.

(3) In this regulation—

“ article ” includes electricity and any substance, vehicle, or vessel,
 “ essential service undertaking ” means any undertaking by way of any trade or business in, or in connexion with, or incidental to, any essential services, and “ undertaker ” shall be construed accordingly.

Control of employment

108. (1) The Governor may direct any person in Ceylon to perform such services in, or in connexion with, or incidental to, any essential work as may be specified by the direction, being services which that person is, in the opinion of the Governor, capable of performing

(2) Where a direction under paragraph (1) has been given to any person, that person shall perform such services as are specified in the direction with due despatch and to the best of his ability, and shall, if he fails or neglects so to perform such services, be guilty of an offence against this regulation

(3) Any services required by a direction given under this regulation to be performed shall be performed upon such terms as to remuneration and conditions of service as the Governor may, in accordance with the provisions of this regulation, direct

Provided that in determining the terms upon which any such services are to be performed, the Governor shall have regard to any rates of salary, fees or wages for the performance of such services which appear to the Governor to be usual, and, in particular, in the case of services usually rendered under a contract of service, shall have regard to any determination relating to the remuneration and conditions of service of persons employed in the district, in the capacity, and in the trade or business, in which the person to whom the direction relates is to serve, being a determination contained in an agreement between organizations representative of employers and workers or in a decision of a conciliation board, arbitration tribunal or other similar body, or, in the absence of any such determination, shall have regard to the remuneration and conditions of service in practice prevailing among good employers in that trade or business in the district.

(4) Any directions given by the Governor under this regulation may, in accordance with his instructions, be given on his behalf by any person duly authorised in writing by him and any person so authorised shall be called an “ Essential Work Officer ”

(5) The Governor may by order make provision for regulating the engagement of workers by employers and the duration of their employment, and for giving effect to the foregoing provisions of this regulation, and may, in particular, provide by any such order —

- (a) for requiring persons to register such particulars about themselves as may be prescribed by or under the order,
- (b) for requiring persons carrying on any undertakings to keep such books, accounts and records relating to the undertaking as may be prescribed by or under the order,
- (c) for requiring persons carrying on, or employed in connexion with, any undertaking, to produce to such person as may be designated by or on behalf of the Governor or by or on behalf of any other authority or person specified in the order such books, accounts or other documents relating to the undertaking and to furnish such estimates, returns or information relating thereto as may be prescribed by or under the order,
- (d) for any incidental and supplementary matters for which the Governor thinks it expedient to provide, including, in particular, the entry and inspection of premises with a view to securing compliance with directions given under this regulation,

and any such provisions may be made so as to relate either to persons or undertakings generally or to any particular person or undertaking or class or description of persons or undertakings

(6) The Governor may by order make provision for securing that enough workers are available in undertakings engaged in essential work and may in particular provide by any such order—

- (a) for securing that, except in circumstances and to the extent provided by the order, persons employed in any such undertaking shall continue to be employed in that undertaking, and shall not be caused to give their services in any other undertakings,
- (b) for prohibiting persons so employed from absenting themselves from work without reasonable excuse or being persistently late in presenting themselves for work;
- (c) for requiring payment to every person so employed of wages for periods during which, though work is not available for him in his usual occupation, he is capable of and available for work, and willing to perform services which he can reasonably be asked to perform,
- (d) for any incidental and supplementary matters for which the Governor thinks it expedient to provide, including, in particular, the matters referred to in sub-paragraphs (b) and (c) of the last foregoing paragraph and the entry and inspection of premises with a view to securing compliance with the order,

and any such provision may be made so as to relate either generally to undertakings engaged as aforesaid or to any particular undertaking or class or description of undertakings so engaged, and either generally to persons employed in undertakings to which the order relates or to any particular person or class or description of persons so employed

(7) In this regulation, “ essential work ” means work appearing to the Governor to be essential for the defence of the Island or the efficient prosecution of the war or to be essential to the life of the community, and references to an undertaking shall include references to a branch or department of an undertaking.

Avoidance of strikes and lockouts in essential services

430. (1) With a view to preventing work being interrupted by trade disputes in essential services, the Governor may by order make provision—

- (a) for establishing a tribunal for the settlement of such trade disputes, and for regulating the procedure of the tribunal;
- (b) for prohibiting, subject to the provisions of the order, a strike or lockout in connexion with any such trade or dispute,
- (c) for requiring employers in essential services to observe such terms and conditions of employment as may be determined in accordance with the order to be, or to be not less favourable than, the recognized terms and conditions,
- (d) for recording departures from any rule, practice or custom in respect of the employment, non-employment, conditions of employment, hours of work or working conditions of any persons employed in essential services,
- (e) for any incidental and supplementary matters for which the Governor thinks it expedient for the purpose of the order to provide

(2) A tribunal established by order of the Governor under paragraph (1) shall have the same powers as a District Court—

- (a) to require and enforce the attendance of any person as a witness and to examine such person on oath or affirmation, and
- (b) to require and enforce the production of any deed, book, or document

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(3) Nothing in any order under paragraph (1) shall affect or be deemed or construed to affect the provisions of the Industrial Disputes (Conciliation) Ordinance or the power to refer any industrial dispute or other matter for settlement or inquiry under that Ordinance

(4) In this regulation, “ trade dispute ” means any dispute or difference between employers and workmen, or between workmen and workmen, in, or in connexion with, or incidental to, the performance of any essential services