ශ්‍රී ලංකා ජනරජයේ ගැසට් පත්‍රය

අති විශෙෂ

THE GAZETTE OF THE REPUBLIC OF SRI LANKA (CEYLON)

EXTRAORDINARY

අංක 160/18— 1975 අප්‍රේල් 19 වැනි සෙනසුරාදා — 1975.04.19

No. 160/18— SATURDAY, APRIL 19, 1975

(Published by Authority)

PART I: SECTION (I) — GENERAL

Government Notifications

P. O. No. W. 68 (50)/75.

THE PUBLIC SECURITY ORDINANCE (CHAPTER 40)

REGULATIONS made by the President under section 5 of the Public Security Ordinance, upon the recommendation of the Prime Minister.

W. GOPALLAWA,
President.

President's Office,
Nuwara Eliya, April **19, 1975.**

Regulations

1. These regulations may be cited as the Emergency (Encroachment Upon State Lands) Regulations, No. 4 of 1975.

2. The Prime Minister may from time to time declare by Order published in the *Gazette*, any area in Sri Lanka to be an area to which these regulations shall apply. Such area is hereafter in these regulations referred to as a " proclaimed area ".

3. (1) Where the Government Agent or a state officer authorised in that behalf by the Prime Minister (such officer being hereafter in these regulations referred to as " the authorized officer "), is of opinion that any person has, at any time after June 1, 1972, by himself or by his agent, made any encroachment upon any state land in any proclaimed area, or has unlawfully—

(*a*) put up any fence, building or other structure thereon ; or

(*b*) done any farming or cultivation thereon ; or

(*c*) felled any timber thereon ; or

(*d*) diverted any waterways thereon ; or

(*e*) burnt any forest thereon ; or

(*f*) broken up the soil thereon ; or

(*g*) altered the boundaries of such state land,

the Government Agent or the authorized officer may issue a certificate to that effect to a police officer not below the rank of Inspector of Police.

(2) The person in respect of whom the Government Agent or the authorized officer issues a certificate under paragraph (1) is hereinafter in these regulations referred to as the " encroacher ".

(3) Before the Government Agent or the authorized officer issues the certificate referred to in paragraph (1), he shall hold such inquiry as he may deem necessary for the purpose of giving the encroacher an opportunity of being heard in his defence.

(4) For the purposes of holding an inquiry under paragraph (3), the Government Agent or the authorized officer shall serve or cause to be served a notice on the encroacher. Where the Government Agent or the authorized officer is unable to serve or cause to be served a notice on the encroacher personally, a notice affixed in a conspicuous place on the land in question shall be deemed to be adequate notice served on the encroacher.

4. (1) It shall be the duty of the police officer who receiver the certificate from the Government Agent or the authorized officer under regulation 3 to eject the encroacher from the state land in question and to demolish any

fence building or other structure on such land and to confiscate any tools, implements, livestock or the produce of any cultivation found on such land ;

Provided however that any such encroacher who is aggrieved by his eviction or the confiscation of his property in derogation of his lawful rights may institute civil proceedings in an appropriate court praying for restoration of possession or damages against the State.

(2) The police officer referred to in paragraph (1) may, in the performance of his duties under this regulation, use such amount of force as he may deem reasonably necessary and may call for and obtain the assistance of any other members of the police force.

5. The preceding provisions of these regulations shall not be construed to prohibit the institution or continuation of any proceedings against the encroacher under any other written law.

6. (1) Where proceedings are instituted in any court against the encroacher under the Land Development Ordinance, the Forest Ordinance, the Crown Lands Ordinance or the Crown Land Encroachments Ordinance, notwithstanding anything in any other law, it shall be the duty of the Judge before whom such proceedings are instituted to remand the encroacher until the conclusion of such proceedings.

(2) Where any proceedings have been commenced in any court against the encroacher between June 1, 1972, and the coming into operation of these regulations, under the Land Development Ordinance, the Forest Ordinance, the Crown Lands Ordinance or the Crown Lands Encroachments Ordinance, the Government Agent or the authorized officer may direct a police officer not below the rank of an Inspector of Police to arrest and produce the encroacher, or to cause him to be arrested and produced, before the Judge before whom such proceedings have been instituted and it shall thereupon be the duty of such Judge, notwithstanding anything in any other law, to remand the encroacher until the conclusion of the proceedings before such Judge.

(3) Notwithstanding the provisions of paragraphs (1) and (2), the Judge before whom the proceedings have been commenced against the encroacher may release the encroacher on bail upon such security as the Judge may consider reasonable—

(*a*) if the Attorney-General gives his written consent to such release ; or

(*b*) if the encroacher gives a written undertaking to the Judge to vacate the land encroached upon before such date as may be determined by the Judge.

7. Where any proceedings have been instituted in any court against the encroacher under the Land Development Ordinance, or the Forest Ordinance, or the Crown Lands Ordinance or the Crown Lands Encroachments Ordinance, it shall be lawful for the Attorney-General, where he considers it expedient so to do, by his fiat to order that such case be transferred from the court in which it has been instituted to any other court in Sri Lanka.

8. (1) Any person who aids or abets any encroacher to commit any act in contravention of any provisions of the Land Development Ordinance, or the Forest Ordinance or the Crown Lands Ordinance or the Crown Lands Encroachments Ordinance, shall be guilty of an offence and shall, upon conviction after trial before a Magistrate, be liable to a fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding two years or to both such fine and imprisonment.

(2) Any person who is accused of any offence under paragraph (1) shall, upon being brought before a Magistrate, be remanded by the Magistrate until the conclusion of the proceedings before him :

Provided, however, that it shall be lawful for the Magistrate to release such offender on bail upon such security as the Magistrate may consider reasonable, if the Attorney-General gives his written consent to such release.

(3) Where the Attorney-General, in pursuance of his powers under regulation 58 of the Emergency (Miscellaneous Provisions and Powers) Regulations, No. 4 of 1975—

(*a*) institutes any prosecution under this regulation ; or

(*b*) sanctions the institution of a prosecution under this regulation,

it shall be lawful for the Attorney-General to institute such prosecution or sanction its institution in any court situated outside the proclaimed area in question where the Attorney-General considers it expedient so to do.

9. No civil or criminal proceedings shall be instituted or maintained in any court against any state officer in respect of anything done or purported to be done under these regulations.

10. The Government Agent may delegate in writing to any staff officer within his administrative district any of his powers or functions under these regulations.

11. In these regulations—

" Government Agent " means the Government Agent having administrative authority over the proclaimed area, and includes any staff officer to whom the Government Agent delegates his powers or functions under these regulations ;

" staff officer " means any state officer holding any office the initial of the salary scale of which is not less than Rs. 6,720 per annum ;

" state land" has the same meaning as " land at the disposal of the Crown " as defined in section 78 of the Forest Ordinance.

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA (CEYLON)